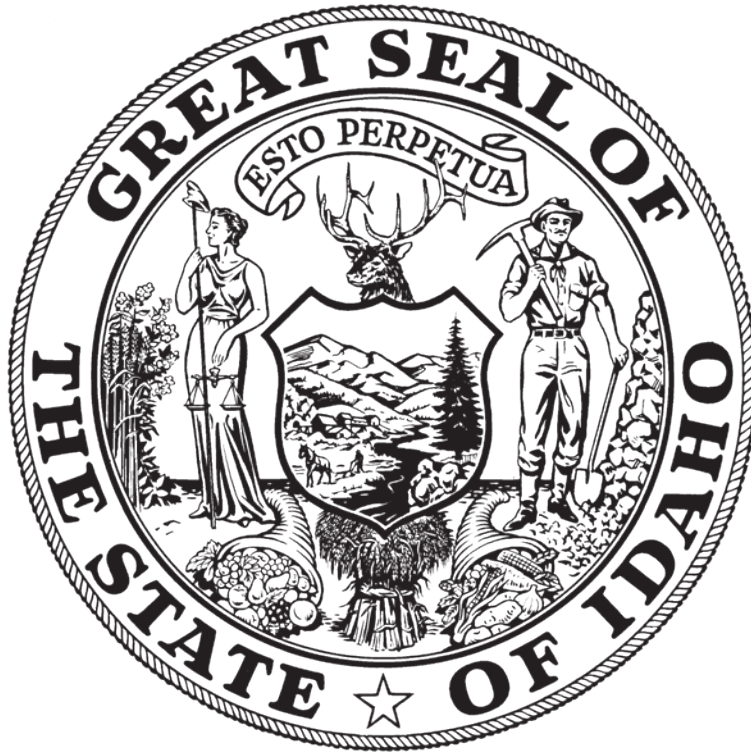


# IDAHO ELECTION HANDBOOK



Compiled under the authority of the  
Secretary of State  
State of Idaho

**IDAHO**  
Secretary of State's Office



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# 2020 Idaho Election Calendar

This edition of the 2020 Idaho Election Calendar is subject to amendatory changes during the 2020 session of the Idaho Legislature. If changes occur, an updated version will be published.

- Jan. 3      **Election Register Examination:** Deadline for county clerks to examine the election register, from the Nov. 6 election, and note challenges. [Sec. 34-432(1), *Idaho Code*]
- Jan. 15      **Election Precincts:** Deadline for county commissioners to establish election precincts. [§34-301, *Idaho Code*]
- Jan. 17      **Early Voting Security Plan:** Deadline for county clerks to submit their ballot security plan to the secretary of state. [§34-1013, *Idaho Code*]
- Jan. 21      **Precinct Committeemen List:** Deadline for county clerks to deliver — to the chairman of the county central committee of each political party — a list (in writing) of the election precincts in the county with the precinct committeemen who were elected at the last primary election or who have since been appointed. [§34-502, *Idaho Code*]
- Jan. 21      **Ballot Question Submission Deadline:** School districts must supply ballot language (to the county clerk) for any bond or property tax levy questions — to be placed on the ballot — for the March 10 election. [§34-106, *Idaho Code*]
- Jan. 24      **Mail Absentee Ballots:** County clerks must begin mailing absentee ballots — to voters who have requested absentee ballots — for the March 10 presidential primary. [§34-1003, *Idaho Code*]
- Jan. 27      **Recall Notification Deadline:** Political subdivisions must notify the county clerk if a recall election is ordered — for the March 10 election. [§34-106(9), *Idaho Code*]
- Jan. 27      **Presidential Candidate Withdrawal Deadline:** Last day presidential candidates can withdraw — from the (March 10) presidential primary election — or have their name removed from the ballot. [§34-733, *Idaho Code*]
- Jan. 30      **Sample Ballot:** Secretary of state to provide county clerks with the sample form of the March 10 presidential primary ballot. [§34-712, *Idaho Code*]
- Jan. 30      **Voting Procedure Modifications:** Deadline for county clerks to submit their plans to the secretary of state; if they want to modify voting procedures (for a political subdivision) — for the March 10 election. [§34-1413, *Idaho Code*]
- Feb. 3      **Precinct Committeemen Certification:** Deadline for the chairman (of each county central committee) to certify — to the county clerk — the names and addresses of the precinct committeemen of the political party. [§34-502, *Idaho Code*]
- Feb. 7      **Designate Polling Places:** Deadline for county commissioners to designate polling places — for the March 10 election. [§34-302, *Idaho Code*]
- Feb. 7      **Election Personnel:** Deadline for precinct committeemen to recommend (in writing) election board personnel — to the county clerk — for the March 10 presidential primary. [§34-303, *Idaho Code*]
- Feb. 15      **Mail Ballot Precincts:** County clerks to begin mailing ballots to voters located in designated mail ballot precincts — for the March 10 election. [§34-308, *Idaho Code*]
- Feb. 18      **Preregistration Deadline:** Voter registrations must be received by the county clerk — for the March 10 election. (Deadline is 5 p.m. for paper applications or until midnight for online applications.) [§34-408, *Idaho Code*]
- Feb. 19      **Voter Registration Closes:** Election Day registration remains available. [§34-408, *Idaho Code*]
- Feb. 24      **Early Voting Begins:** For those counties that choose to conduct early voting. [§34-1012, *Idaho Code*]
- Feb. 25      **Mail Ballot Precincts:** Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the March 10 election. [§34-308, *Idaho Code*]

## 2020 ELECTION CONSOLIDATION CALENDAR

- Feb. 27 **Election Observers:** Deadline for political parties or candidates to submit a written request (to the county clerk) for the purpose of authorizing challengers or watchers to observe at polling places — for the March 10 election. [~~§34-304~~, *Idaho Code*]
- Feb. 27 **Publish First Election Notification:** Deadline for county clerk to publish the first notice of election — in the county’s official newspaper(s) — for the March 10 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [~~§34-602~~ and ~~§34-1406~~, *Idaho Code*]
- Feb. 28 **Absentee Ballot Application Deadline:** Applications must be received by the county clerk by 5 p.m. — for the March 10 election. [~~§34-1002~~(7), *Idaho Code*]
- Feb. 28–Mar. 6 **Publish Notification of Candidate Filing Deadline:** County clerk must publish a notification of the candidate filing deadline — for the May 19 primary — during this week. The notice should appear in the official newspaper(s) of the political subdivision. [~~§34-1405~~, *Idaho Code*]
- March 2 **Nonpartisan Candidate Filing Begins:** Petitions to nominate political subdivision candidates — for the May 19 primary — may begin being filed with the clerk of the political subdivision. [~~§34-1404~~, *Idaho Code*]
- March 2 **County Candidate Filing Begins:** Candidates (including independents) who plan to run for county office — during the May 19 and Nov. 3 elections — may begin filing declarations of candidacy with the county clerk. [~~§34-704~~ and ~~§34-708~~, *Idaho Code*]
- March 2 **Statewide Candidate Filing Begins:** Candidates (including independents) who plan to run for precinct, state, or district office — during the May 19 and Nov. 3 elections — may begin filing declarations of candidacy with the secretary of state. [~~§34-704~~ and ~~§34-708~~, *Idaho Code*]
- March 5 **Publish Second Election Notification:** Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the March 10 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [~~§34-602~~ and ~~§34-1406~~, *Idaho Code*]
- March 6 **In-Person Absentee/Early Voting Ends:** At 5 p.m. — for the March 10 election. [~~§34-1002~~(7) and ~~§34-1012~~, *Idaho Code*]
- March 10 **Absentee Ballot Return Deadline:** Voted absentee ballots must be received — by the county clerk — by 8 p.m. [~~§34-1005~~, *Idaho Code*]
- March 10 **Election Day:** Polling places — and the county clerk’s office — to be open 8 a.m.–8 p.m. (\*County clerk may opt to open at 7 a.m.) [~~§34-211~~ and ~~§34-1101~~, *Idaho Code*]
- March 11 Voter Registration Reopens [~~§34-408~~, *Idaho Code*]
- March 13 **Political Party Affiliation:** Last day electors can change political party affiliation (with the county clerk) or become “unaffiliated” before the May 19 primary. [~~§34-411A~~, *Idaho Code*]
- March 13 **Nonpartisan Candidate Filing Deadline:** Petitions must be filed by 5 p.m. — with the clerk of the political subdivision — to nominate political subdivision candidates — for the May 19 primary. [~~§34-1404~~, *Idaho Code*]
- March 13 **County Candidate Filing Deadline:** Candidates (for county office; including independents) must file a declaration of candidacy with the county clerk — for the May 19 and Nov. 3 elections. [~~§34-704~~ and ~~§34-708~~, *Idaho Code*]
- March 13 **Statewide Candidate Filing Deadline:** Candidates (for precinct, state, or district office; including independents) must file a declaration of candidacy with the secretary of state — for the May 19 and Nov. 3 elections. [~~§34-704~~ and ~~§34-708~~, *Idaho Code*]
- March 16 **County Central Committee Notification Deadline:** County clerk to notify the central committee of the candidates who are qualified to run for county/precinct office — for the May 19 and Nov. 3 elections. [~~§34-706~~, *Idaho Code*]

## 2020 ELECTION CONSOLIDATION CALENDAR

March 16	<b>Statewide Central Committees Notification Deadline:</b> Secretary of state to notify the legislative district and state central committees of the candidates who are qualified to run for legislative, federal, and state office — for the May 19 and Nov. 3 elections. [ <u>§34-706, Idaho Code</u> ]
March 17	<b>County Canvass:</b> Deadline for the board of county commissioners to meet and conduct the canvass — of the March 10 election. [ <u>§34-1410, Idaho Code</u> ]
March 17*	<b>County Election Certification:</b> Deadline for county clerks to certify the results — of the March 10 election — to the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the canvass.) [ <u>§34-1410, Idaho Code</u> ]
March 20	<b>Nonpartisan Nominee Certification:</b> Deadline for the clerk of the political subdivision to certify nominees — to be placed on the ballot — for the May 19 primary. (*This date may vary; to be done within seven days following the petition filing.) [ <u>§34-1404, Idaho Code</u> ]
March 20	<b>Ballot Question Submission Deadline:</b> Political subdivisions must submit ballot language (to the county clerk) for any bond, levy, initiative, referendum, or other question — to be placed on the ballot — for the May 19 primary [ <u>§34-106, Idaho Code</u> ]
March 20	County clerk to appoint election personnel for the (May 19)primary election. [ <u>§34-303, Idaho Code</u> ]
March 23	<b>Partisan Candidate Certification:</b> Deadline for the Secretary of state to certify candidates — for federal, state, and district office — for the May 19 primary. (Candidates who are appointed after this deadline will be certified within one business day.) [ <u>§34-705(2)</u> and <u>§34-705(3), Idaho Code</u> ]
March 25	<b>State Board Canvass:</b> Deadline for the state board of canvassers to meet and conduct the canvass — of the March 10 election. [ <u>§34-1211, Idaho Code</u> ]
March 27	<b>Partisan Candidate Withdrawal Deadline:</b> Last day partisan candidates can withdraw from the May 19 primary. [ <u>§34-717, Idaho Code</u> ]
April 1	<b>Mail Ballot Precinct Designation:</b> Deadline for the board of county commissioners to designate mail ballot precincts. [ <u>§34-308, Idaho Code</u> ]
April 3	<b>Mail Absentee Ballots:</b> County clerks must begin mailing absentee ballots — to voters who have requested absentee ballots — for the May 19 primary. [ <u>§34-1003, Idaho Code</u> ]
April 3	<b>Absentee Ballot Delivery Witnesses:</b> Deadline for political parties to supply names of witnesses (if desired) to accompany the clerk in the personal delivery of an absentee ballot — for the May 19 primary. [ <u>§34-1003, Idaho Code</u> ]
April 3	<b>Nonpartisan Write-In Candidates:</b> Deadline for write-in candidates (running for any nonpartisan elective office) to file a declaration of intent with the clerk of the political subdivision — for the May 19 primary. [ <u>§34-1407, Idaho Code</u> ]
April 3	<b>Nonpartisan Candidate Withdrawal Deadline:</b> Last day nonpartisan candidates can withdraw from the May 19 primary. [ <u>§34-1405A, Idaho Code</u> ]
April 3	<b>Recall Notification Deadline:</b> Political subdivisions must notify the county clerk if a recall election is ordered — for the May 19 primary. [ <u>§34-106(9), Idaho Code</u> ]
April 6*	<b>Local Election Disputes:</b> Deadline for electors to contest the results — of the (March 10) local election results. (*This date may vary; complaints must be filed in the proper court within 20 days of the county canvass.) [ <u>§34-2008, Idaho Code</u> ]
April 9	<b>Sample Ballot:</b> Secretary of state to provide county clerks with the sample form of the May 19 primary ballot. [ <u>§34-712, Idaho Code</u> ]
April 9	<b>Voting Procedure Modifications:</b> Deadline for county clerks to submit their plans to the secretary of state; if they want to modify voting procedures (for a political subdivision) — for the May 19 election. [ <u>§34-1413, Idaho Code</u> ]

## 2020 ELECTION CONSOLIDATION CALENDAR

April 14*	<b>Statewide Election Disputes:</b> Deadline for electors to contest the results — of the presidential primary. (*This date may vary; complaints must be filed in the proper court within 20 days of the state canvass.) [ <u>§34-2008</u> , <i>Idaho Code</i> ]
April 17	<b>Designate Polling Places:</b> Deadline for county commissioners to designate polling places — for the May 19 primary. [ <u>§34-302</u> , <i>Idaho Code</i> ]
April 17	<b>Election Personnel:</b> Deadline for precinct committeemen to recommend (in writing) election board personnel — to the county clerk — for the May 19 primary. [ <u>§34-303</u> , <i>Idaho Code</i> ]
April 21	<b>Partisan Write-In Candidates:</b> Deadline for write-in candidates (running for federal, state, legislative, or county office) to file a declaration of intent — for the May 19 primary. [ <u>§34-702A</u> , <i>Idaho Code</i> ]
April 25	<b>Mail Ballot Precincts:</b> County clerks to begin mailing ballots to voters located in designated mail ballot precincts — for the May 19 primary. [ <u>§34-308</u> , <i>Idaho Code</i> ]
April 27	<b>Preregistration Deadline:</b> Voter registrations must be received by the county clerk — for the May 19 primary. (Deadline is 5 p.m. for paper applications or until midnight for online applications.) [ <u>§34-408</u> , <i>Idaho Code</i> ]
April 28	<b>Voter Registration Closes:</b> Election Day registration remains available. [ <u>§34-408</u> , <i>Idaho Code</i> ]
April 30*	<b>Initiative Signature Deadline:</b> Last day to circulate initiative petitions for signatures. (*This date may vary; the deadline can't extend past the 18-month circulation period. [ <u>§34-1802(1)</u> , <i>Idaho Code</i> ]
May 1*	<b>Initiative Submission Deadline:</b> Last day to submit signed petitions to the county clerk (by the close of business) for verification. (*This date may vary; the deadline can't extend past the 18-month circulation period. [ <u>§34-1802(2)</u> , <i>Idaho Code</i> ]
May 4	<b>Early Voting Begins:</b> For those counties that choose to conduct early voting. [ <u>§34-1012</u> , <i>Idaho Code</i> ]
May 5	<b>Mail Ballot Precincts:</b> Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the May 19 election. [ <u>§34-308</u> , <i>Idaho Code</i> ]
May 7	<b>Election Observers:</b> Deadline for political parties or candidates to submit a written request (to the county clerk) for the purpose of authorizing challengers or watchers to observe at polling places — for the May 19 election. [ <u>§34-304</u> , <i>Idaho Code</i> ]
May 7	<b>Publish First Election Notification:</b> Deadline for county clerk to publish the first notice of election — in the county's official newspaper(s) — for the May 19 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [ <u>§34-602</u> and <u>§34-1406</u> , <i>Idaho Code</i> ]
May 8	<b>Absentee Ballot Application Deadline:</b> Applications must be received by the county clerk by 5 p.m. — for the May 19 primary. [ <u>§34-1002(7)</u> , <i>Idaho Code</i> ]
May 8	<b>Election Register Examination:</b> Deadline for county clerks to examine the election register, from the March 10 election, and note challenges. [Sec. <u>34-432(1)</u> , <i>Idaho Code</i> ]
May 14	<b>Publish Second Election Notification:</b> Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the May 19 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [ <u>§34-602</u> and <u>§34-1406</u> , <i>Idaho Code</i> ]
May 15	<b>In-Person Absentee/Early Voting Ends:</b> At 5 p.m. — for the May 10 primary. [ <u>§34-1002(7)</u> and <u>§34-1012</u> , <i>Idaho Code</i> ]
May 19	<b>Absentee Ballot Return Deadline:</b> Voted absentee ballots must be received — by the county clerk — by 8 p.m. [ <u>§34-1005</u> , <i>Idaho Code</i> ]
May 19	<b>Election Day:</b> Polling places — and the county clerk's office — to be open 8 a.m.–8 p.m. (*County clerk may opt to open at 7 a.m.) [ <u>§34-211</u> and <u>§34-1101</u> , <i>Idaho Code</i> ]

## 2020 ELECTION CONSOLIDATION CALENDAR

May 20	<b>Voter Registration Reopens:</b> Voters can once again become “unaffiliated” or change their political party affiliation. [ <a href="#">§34-408</a> and <a href="#">§34-411A</a> , <i>Idaho Code</i> ]
May 26	<b>County Canvass:</b> Deadline for the board of county commissioners to meet and conduct the canvass — of the May 19 primary. (The deadline to conduct the canvass for political subdivisions is May 29. However, we recommend conducting both canvasses together.) [ <a href="#">§34-1205</a> and <a href="#">§34-1410</a> , <i>Idaho Code</i> ]
May 26*	<b>County Election Certification:</b> Deadline for county clerks to certify the results — of the May 19 election — to the secretary of state and the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the county canvass.) [ <a href="#">§34-1208</a> , <i>Idaho Code</i> ]
May 26*	<b>Nomination Certificates:</b> Deadline for county clerk to issue certificates of nomination to county candidates. (*This date may vary; to be done immediately after the county canvass.) [ <a href="#">§34-1208</a> , <i>Idaho Code</i> ]
May 26*	<b>Election Certificates:</b> Deadline for the clerk of the political subdivision to issue certificates of election. (*This date may vary; to be done immediately after the canvass.) [ <a href="#">§34-1410</a> , <i>Idaho Code</i> ]
May 29	<b>County Central Committee Elections:</b> Deadline for the county central committees to elect officers. [ <a href="#">§34-502</a> , <i>Idaho Code</i> ]
June 1	<b>Legislative District Central Committee Elections:</b> Deadline for legislative district central committees to elect officers. [ <a href="#">§34-503</a> , <i>Idaho Code</i> ]
June 3*	<b>Election Certificates:</b> County clerk to issue certificates of election to the precinct committeemen. (*This date may vary; to be done within eight days after the county canvass.) [ <a href="#">§34-1208</a> , <i>Idaho Code</i> ]
June 3	<b>State Board Canvass:</b> Deadline for the state board of canvassers to meet and conduct the canvass — of the May 19 primary election. [ <a href="#">§34-1211</a> , <i>Idaho Code</i> ]
June 3*	<b>State Board Election Certification:</b> Deadline for state board of canvassers to certify results — of the May 19 primary — for all federal, state, and district candidates. (*This date may vary; to be done after the state board canvass.) [ <a href="#">§34-1208</a> , <i>Idaho Code</i> ]
June 3*	<b>Nomination Certificates:</b> Deadline for secretary of state to issue certificates of nomination to federal, state, and district candidates. (*This date may vary; to be done immediately after the state board canvass.) [ <a href="#">§34-1214(1)</a> , <i>Idaho Code</i> ]
June 3*	<b>Nomination/Election Certificates:</b> Deadline for secretary of state to issue certificates of nomination/ election to nonpartisan candidates. (*This date may vary; to be done immediately after the state board canvass.) [ <a href="#">§34-1214(2)</a> , <i>Idaho Code</i> ]
June 5*	<b>County Write-In Candidates:</b> Deadline for county candidates (who were write-in candidates for the primary) to file a declaration of candidacy for the (Nov. 3) General Election. (*This date may vary; deadline is 10 days after the county canvass.) [ <a href="#">§34-702</a> , <i>Idaho Code</i> ]
June 13*	<b>Statewide Write-In Candidates:</b> Deadline for federal, state, and legislative candidates (who were write-in candidates for the primary) to file a declaration of candidacy for the (Nov. 3) General Election. (*This date may vary; deadline is 10 days after the state board canvass.) [ <a href="#">§34-702</a> , <i>Idaho Code</i> ]
June 15*	<b>Political Subdivision Recount Applications:</b> Deadline — for local candidates or supporters/opponents of a local ballot measure — to apply to the county clerk for a recount of the May 19 election. (*This date may vary; it must be done within 20 days of the county canvass). [ <a href="#">§34-2301</a> , <i>Idaho Code</i> ]
June 15*	<b>County Recount Applications:</b> Deadline — for county candidates or supporters/opponents of a county ballot measure — to apply to the attorney general for a recount of the May 19 election. (*This date may vary; it must be done within 20 days of the county canvass). [ <a href="#">§34-2301</a> , <i>Idaho Code</i> ]
June 15*	<b>County Election Disputes:</b> Deadline for electors to contest the (county or political subdivision) results — of the May 19 election. (*This date may vary; complaints must be filed in the proper court within 20 days of the county canvass. [ <a href="#">§34-2008</a> , <i>Idaho Code</i> ]

## 2020 ELECTION CONSOLIDATION CALENDAR

June 23*	<b>State Board Recount Applications:</b> Deadline — for federal, state, legislative, or judicial candidates — to apply to the attorney general for a recount of the May 19 election. (*This date may vary; it must be done within 20 days of the state board canvass. [ <u>§34-2301</u> , <i>Idaho Code</i> ])
June 23*	<b>State Board Election Disputes:</b> Deadline for electors to contest the (statewide) results — of the May 19 election. (*This date may vary; complaints must be filed in the proper court within 20 days of the state board canvass. [ <u>§34-2008</u> , <i>Idaho Code</i> ])
June 30*	<b>Initiative Signature Verification Deadline:</b> Last day for county clerks to verify petition signatures. (*This date may vary; the deadline is 60 days from the submission deadline. [ <u>§34-1802(3)</u> , <i>Idaho Code</i> ])
July 6	<b>Ballot Question Submission Deadline:</b> School districts must supply ballot language (to the county clerk) for any bond or property tax levy questions — to be placed on the ballot — for the Aug. 25 election. [ <u>§34-106</u> , <i>Idaho Code</i> ]
July 10	<b>Recall Notification Deadline:</b> Political subdivisions must notify the county clerk if a recall election is ordered — for the Aug. 25 election. [ <u>§34-106(9)</u> , <i>Idaho Code</i> ]
July 16	<b>Voting Procedure Modifications:</b> Deadline for county clerks to submit their plans to the secretary of state; if they want to modify voting procedures (for a political subdivision) — for the Aug. 25 election. [ <u>§34-1413</u> , <i>Idaho Code</i> ]
July 20	<b>Election Register Examination:</b> Deadline for county clerks to examine the election register, from the May 19 primary, and note challenges. [Sec. <u>34-432(1)</u> , <i>Idaho Code</i> ]
July 22–29	<b>Publish Notification of Candidate Filing Deadline:</b> County clerk must publish a notification of the (highway district commissioner) candidate filing deadline — for the Nov. 3 General Election — during this week. The notice should appear in the official newspaper(s) of the political subdivision. [ <u>§34-625</u> , <u>§34-625A</u> , and <u>§34-1405</u> , <i>Idaho Code</i> ]
July 24	<b>Designate Polling Places:</b> Deadline for county commissioners to designate polling places — for the Aug. 25 election. [ <u>§34-302</u> , <i>Idaho Code</i> ]
July 24	County clerk to appoint election personnel for the Aug. 25 election. [ <u>§34-303</u> , <i>Idaho Code</i> ]
July 27	<b>Mail Absentee Ballots:</b> County clerks must begin mailing absentee ballots — to voters who have requested absentee ballots — for the Aug. 25 election. [ <u>§34-1003(3)</u> , <i>Idaho Code</i> ]
Aug. 1	<b>Mail Ballot Precincts:</b> County clerks to begin mailing ballots to voters located in designated mail ballot precincts — for the Aug. 25 election. [ <u>§34-308</u> , <i>Idaho Code</i> ]
Aug. 3	<b>Preregistration Deadline:</b> Voter registrations must be received by the county clerk — for the Aug. 25 election. (Deadline is 5 p.m. for paper applications or until midnight for online applications.) [ <u>§34-408</u> , <i>Idaho Code</i> ]
Aug. 4	<b>Voter Registration Closes:</b> Election Day registration remains available. [ <u>§34-408</u> , <i>Idaho Code</i> ]
Aug. 5	<b>Magistrate Candidate Filing Deadline:</b> Magistrates who are up for retention — must file a declaration of candidacy with the county clerk — for the (Nov. 3) General Election. [ <u>§1-2220</u> , <i>Idaho Code</i> ]
Aug. 5	<b>Highway District Candidate Filing Deadline:</b> Highway district commissioner candidates — must file a declaration of candidacy with the county clerk — for the (Nov. 3) General Election. [ <u>§34-625</u> and <u>§34-625A</u> , <i>Idaho Code</i> ]
Aug. 10	<b>Early Voting Begins:</b> For those counties that choose to conduct early voting. [ <u>§34-1012</u> , <i>Idaho Code</i> ]
Aug. 11	<b>Mail Ballot Precincts:</b> Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the Aug. 25 election. [ <u>§34-308</u> , <i>Idaho Code</i> ]

## 2020 ELECTION CONSOLIDATION CALENDAR

Aug. 13	<b>Election Observers:</b> Deadline for political parties or candidates to submit a written request (to the county clerk) for the purpose of authorizing challengers or watchers to observe at polling places — for the Aug. 25 election. [ <u>§34-304, Idaho Code</u> ]
Aug. 13	<b>Publish First Election Notification:</b> Deadline for county clerk to publish the first notice of election — in the county’s official newspaper(s) — for the Aug. 25 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [ <u>§34-602</u> and <u>§34-1406, Idaho Code</u> ]
Aug. 14	<b>Absentee Ballot Application Deadline:</b> Applications must be received by the county clerk by 5 p.m. — for the Aug. 25 election. [ <u>§34-1002(7), Idaho Code</u> ]
Aug. 18–25	<b>Publish Notification of Candidate Filing Deadline:</b> County clerk must publish a notification of the candidate filing deadline — for the (Nov. 3) General Election — during this week. The notice should appear in the official newspaper(s) of the political subdivision. [ <u>§34-1405, Idaho Code</u> ]
Aug. 20	<b>Publish Second Election Notification:</b> Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the Aug. 25 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [ <u>§34-602</u> and <u>§34-1406, Idaho Code</u> ]
Aug. 21	<b>In-Person Absentee/Early Voting Ends:</b> At 5 p.m. — for the Aug. 25 election. [ <u>§34-1002(7)</u> and <u>§34-1012, Idaho Code</u> ]
Aug. 25	<b>Absentee Ballot Return Deadline:</b> Voted absentee ballots must be received — by the county clerk — by 8 p.m. [ <u>§34-1005, Idaho Code</u> ]
Aug. 25	<b>Election Day:</b> Polling places — and the county clerk’s office (in counties holding an election) — to be open 8 a.m. – 8 p.m. [ <u>§34-106</u> and <u>§34-1101, Idaho Code</u> ]
Aug. 25	<b>Independent Presidential Candidates:</b> Deadline for independent presidential and vice-presidential candidates to file a declaration of candidacy. [ <u>§34-708A, Idaho Code</u> ]
Aug. 26	Voter Registration Reopens [ <u>§34-408, Idaho Code</u> ]
Aug. 30	<b>Political Party Petition Filings:</b> Deadline for a new political party to file a formation petition with the secretary of state. [ <u>§34-501, Idaho Code</u> ]
Sept. 1	<b>Nonpartisan Candidate Filing Deadline:</b> Petitions must be filed by 5 p.m. — with the clerk of the political subdivision — to nominate political subdivision candidates — for the Nov. 3 election. [ <u>§34-1404, Idaho Code</u> ]
Sept. 1	<b>Presidential Candidate Certification:</b> Deadline for the state party chairman to certify candidates for president, vice-president, and presidential electors for the (Nov. 3) General Election. (Unless the secretary of state grants a five-day extension.) [ <u>§34-711, Idaho Code</u> ]
Sept. 4	<b>County Canvass:</b> Deadline for the board of county commissioners to meet and conduct the canvass — of the Aug. 25 election. [ <u>§34-1410, Idaho Code</u> ]
Sept. 4*	<b>County Election Certification:</b> Deadline for county clerks to certify the results — of the Aug. 25 election — to the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the canvass.) [ <u>§34-1410, Idaho Code</u> ]
Sept. 4	<b>Ballot Question Submission Deadline:</b> Political subdivisions must submit ballot language (to the county clerk) for any bond, levy, initiative, referendum, or other question — to be placed on the ballot — for the Nov. 3 election. [ <u>§34-106, Idaho Code</u> ]
Sept. 8	<b>Partisan Candidate Withdrawal Deadline:</b> Last day partisan candidates can withdraw from the (Nov. 3) General Election. [ <u>§34-717, Idaho Code</u> ]
Sept. 8	<b>Nonpartisan Nominee Certification:</b> Deadline for the clerk of the political subdivision to certify nominees — to be placed on the ballot — for the Nov. 3 election. (*This date may vary; to be done within seven days following the petition filing.) [ <u>§34-1404, Idaho Code</u> ]

## 2020 ELECTION CONSOLIDATION CALENDAR

Sept. 8	<b>Statewide Ballot Question Certification:</b> Deadline for the secretary of state to certify a proposed constitution, constitutional amendments, or other ballot questions to the county clerks for the (Nov. 3) General Election. [ <u>§34-603, Idaho Code</u> ]
Sept. 8	<b>Sample Ballot:</b> Secretary of state to provide county clerks with sample ballots for the (Nov. 3) General Election. [ <u>§34-909, Idaho Code</u> ]
Sept. 14	Last day for county clerk to print absentee ballots for the (Nov. 3) General Election. (Secretary of State Directive) [ <u>§34-1003, Idaho Code</u> ]
Sept. 18	<b>Mail Absentee Ballots:</b> County clerks must mail absentee ballots — to voters who have requested absentee ballots — for the (Nov. 3) General Election. [ <u>§34-1003(3), Idaho Code</u> ]
Sept. 18	<b>Absentee Ballot Delivery Witnesses:</b> Deadline for political parties to supply names of witnesses to the county clerk if the political party wants a witness to accompany the clerk in the personal delivery of an absentee ballot for the (Nov. 3) General Election. [ <u>§34-1003(5), Idaho Code</u> ]
Sept. 18	<b>Nonpartisan Write-In Candidates:</b> Deadline for write-in candidates (running for any nonpartisan elective office) to file a declaration of intent with the clerk of the political subdivision — for the Nov. 3 election. [ <u>§34-1407, Idaho Code</u> ]
Sept. 18	<b>Nonpartisan Candidate Withdrawal Deadline:</b> Last day nonpartisan candidates can withdraw from the Nov. 3 election. [ <u>§34-1405A, Idaho Code</u> ]
Sept. 18	<b>Recall Notification Deadline:</b> Political subdivisions must notify the county clerk if a recall election is ordered — for the Nov. 3 election. [ <u>§34-106(9), Idaho Code</u> ]
Sept. 24	<b>Voting Procedure Modifications:</b> Deadline for county clerks to submit their plans to the secretary of state; if they want to modify voting procedures (for a political subdivision) — for the (Nov. 3) General Election. [ <u>§34-1413, Idaho Code</u> ]
Sept. 24*	<b>Recount Applications:</b> Deadline — for supporters or opponents of a ballot measure — to apply to the county clerk for a recount of the Aug. 25 election. (*This date may vary; it must be done within 20 days of the canvass). [ <u>§34-2301, Idaho Code</u> ]
Sept. 24*	<b>Election Disputes:</b> Deadline for electors to contest the results — of the Aug. 25 election. (*This date may vary; complaints must be filed in the proper court within 20 days of the canvass.) [ <u>§34-2008, Idaho Code</u> ]
Oct. 2	<b>Designate Polling Places:</b> Deadline for county commissioners to designate polling places — for the (Nov. 3) General Election. [ <u>§34-302, Idaho Code</u> ]
Oct. 2	County clerk to appoint election personnel for the (Nov. 3) General Election. [ <u>§34-303, Idaho Code</u> ]
Oct. 6	<b>Partisan Write-In Candidates:</b> Deadline for write-in candidates (running for federal, state, legislative, or county office) to file a declaration of intent — for the (Nov. 3) General Election. [ <u>§34-702A, Idaho Code</u> ]
Oct. 10	<b>Mail Ballot Precincts:</b> County clerks to begin mailing ballots to voters located in designated mail ballot precincts — for the (Nov. 3) General Election. [ <u>§34-308, Idaho Code</u> ]
Oct. 13	<b>Preregistration Deadline:</b> Voter registrations must be received by the county clerk — for the Nov. 3 election. (Deadline is 5 p.m. for paper applications or until midnight for online applications.) [ <u>§34-408, Idaho Code</u> ]
Oct. 14	<b>Voter Registration Closes:</b> Election Day registration remains available. [ <u>§34-408, Idaho Code</u> ]
Oct. 19	<b>Early Voting Begins:</b> For those counties that choose to conduct early voting. [ <u>§34-1012, Idaho Code</u> ]
Oct. 20	<b>Mail Ballot Precincts:</b> Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the Nov. 3 election. [ <u>§34-308, Idaho Code</u> ]

## 2020 ELECTION CONSOLIDATION CALENDAR

Oct. 22	<b>Election Observers:</b> Deadline for political parties or candidates to submit a written request (to the county clerk) for the purpose of authorizing challengers or watchers to observe at polling places — for the (Nov. 3) General Election. [ <a href="#">§34-304</a> , <i>Idaho Code</i> ]
Oct. 22	<b>Publish First Election Notification:</b> Deadline for county clerk to publish the first notice of election — in the county’s official newspaper(s) — for the Nov. 3 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [ <a href="#">§34-602</a> and <a href="#">§34-1406</a> , <i>Idaho Code</i> ]
Oct. 23	<b>Partisan Candidate Certification:</b> Deadline for the secretary of state to certify candidates — for federal, state, and district office — (appointed by the central committee) for the (Nov. 3) General Election. [ <a href="#">§34-909</a> , <i>Idaho Code</i> ]
Oct. 23	<b>Election Register Examination:</b> Deadline for county clerks to examine the election register, from the Aug. 25 election, and note challenges. [ <a href="#">§34-432</a> (1), <i>Idaho Code</i> ]
Oct. 23	<b>Absentee Ballot Application Deadline:</b> Applications must be received by the county clerk by 5 p.m. — for the Nov. 3 election. [ <a href="#">§34-1002</a> (7), <i>Idaho Code</i> ]
Oct. 29	<b>Publish Second Election Notification:</b> Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the Nov. 3 election. (If possible, the notice should appear in at least two newspapers published — or circulated — in the county.) [ <a href="#">§34-602</a> and <a href="#">§34-1406</a> , <i>Idaho Code</i> ]
Oct. 30	<b>In-Person Absentee/Early Voting Ends:</b> At 5 p.m. — for the General Election. [ <a href="#">§34-1002</a> (7) and <a href="#">§34-1012</a> , <i>Idaho Code</i> ]
Nov. 3	<b>Absentee Ballot Return Deadline:</b> Voted absentee ballots must be received — by the county clerk — by 8 p.m. [ <a href="#">§34-1005</a> , <i>Idaho Code</i> ]
Nov. 3	<b>Election Day:</b> Polling places — and the county clerk’s office — to be open 8 a.m.–8 p.m. (*County clerk may opt to open at 7 a.m.) [ <a href="#">§34-211</a> and <a href="#">§34-1101</a> , <i>Idaho Code</i> ]
Nov. 4	Voter Registration Reopens [ <a href="#">§34-408</a> , <i>Idaho Code</i> ]
Nov. 13	<b>County Canvass:</b> Deadline for the board of county commissioners to meet and conduct the canvass — of the (Nov. 3) General Election. (This deadline also applies to the canvass for political subdivisions.) [ <a href="#">§34-1205</a> and <a href="#">§34-1410</a> , <i>Idaho Code</i> ]
Nov. 13*	<b>County Election Certification:</b> Deadline for county clerks to certify the results — of the Nov. 3 election — to the secretary of state and to the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the county canvass.) [ <a href="#">§34-1207</a> and <a href="#">§34-1410</a> , <i>Idaho Code</i> ]
Nov. 13*	<b>Election Certificates:</b> Deadline for county clerk (and the clerk of the political subdivision) to issue certificates of election. (*This date may vary; to be done immediately after the county canvass.) [ <a href="#">§34-1410</a> and <a href="#">§34-1209</a> , <i>Idaho Code</i> ]
Nov. 18	<b>State Board Canvass:</b> Deadline for the state board of canvassers to meet and conduct the canvass — of the (Nov. 3) General Election. [ <a href="#">§34-1211</a> , <i>Idaho Code</i> ]
Nov. 18*	<b>State Board Election Certification:</b> Deadline for state board of canvassers to certify results — of the (Nov. 3) General Election — for all federal, state, and district candidates. (*This date may vary; to be done immediately after the state canvass.) [ <a href="#">§34-1213</a> , <i>Idaho Code</i> ]
Nov. 18*	<b>Election Certificates:</b> Deadline for secretary of state to issue certificates of election to federal, state, and district candidates. (*This date may vary; to be done immediately after the state board canvass.) [ <a href="#">§34-1215</a> , <i>Idaho Code</i> ]
Dec. 3*	<b>County Recount Applications:</b> Deadline — for county or political subdivision candidates or supporters/opponents of a county/local ballot measure — to apply to the attorney general for a recount of the (Nov. 3) General Election. (*This date may vary; it must be done within 20 days of the county canvass. [ <a href="#">§34-2301</a> , <i>Idaho Code</i> ]

## 2020 ELECTION CONSOLIDATION CALENDAR

- Dec. 3\* **County Election Disputes:** Deadline for electors to contest the (county or political subdivision) results — of the General Election. (\*This date may vary; complaints must be filed in the proper court within 20 days of the county canvass. [~~§34-2008~~, *Idaho Code*])
- Dec. 8\* **State Board Recount Applications:** Deadline — for federal, state, legislative, judicial candidates or supporters/opponents of a stateside ballot measure — to apply to the attorney general for a recount of the (Nov. 3) General Election. (\*This date may vary; it must be done within 20 days of the state board canvass. [~~§34-2301~~, *Idaho Code*])
- Dec. 8\* **State Board Election Disputes:** Deadline for electors to contest the (statewide) results — of the General Election. (\*This date may vary; complaints must be filed in the proper court within 20 days of the state board canvass. [~~§34-2008~~, *Idaho Code*])
- Dec. 14 **Presidential Electors:** Federal date for presidential electors to meet and vote. [3 U.S.C. §7; ~~§34-1503~~, *Idaho Code*]
- Dec. 31 **2021 Election Calendar Publication Deadline:** County clerks to publish the 2021 election calendar. [~~§34-1405(2)~~, *Idaho Code*]

# Federal & State Candidate Filing Requirements

**FILING PERIOD:** March 2 — March 9 at 5:00 PM

A partisan candidate has two options to be placed on the ballot: (1) File declaration of candidacy and pay the filing fee or (2) In lieu of paying the filing fee, file a nominating petition, with a certain number of verified signatures and declaration of candidacy.

Independent candidates do not have the two options. An independent candidate must file the declaration and petition.

Independent candidates do not pay a filing fee.

The required declaration, petitions/filing fee must be received by Secretary of State no later than 5:00 PM March 13, 2020.

## FEDERAL OFFICES

Office	U.S. Senator	U.S. Representative
<b>Statutory Reference</b>	Art I, Sec 3, US Constitution; Sec 34-604, I.C.	Art I, Sec 2, US Constitution; Sec 34-605, I.C.
<b>Qualifications Residency</b>	Reside within state at time of general election; US citizen for at least 9 years	Reside within state at time of general election; US citizen for at least 7 years
<b>Age</b>	30	25
<b>Filing Fee</b>	\$500	\$300
<b>Petition Signatures</b>	1,000 verified prior to filing	500 from cong. dist. verified prior to filing
<b>Declaration Form No.</b>	SC-1 SC-1A for Independent Candidates	SC-1 SC-1A for Independent Candidates
<b>Petition Form No.</b>	SC-2 SC-2A for Independent Candidates	SC-2 SC-2A for Independent Candidates
<b>Campaign Disclosure</b>	File with *FEC	File with *FEC

## STATE OFFICES

Office	State Senator	State Representative
<b>Statutory Reference</b>	Art III, Sec 6, State Constitution; Sec 34-614, I.C.	Art III, Sec 6, State Constitution; Sec 34-614 & 34-614A, I.C.
<b>Qualifications Residency</b>	Elector 1 yr. within leg. dist. preceding general election; US citizen	Elector 1 yr. within leg. dist. preceding general election; US citizen
<b>Age</b>	21	21
<b>Filing Fee</b>	\$30	\$30
<b>Petition Signatures</b>	50 within leg. dist. verified prior to filing	50 within leg. dist. verified prior to filing
<b>Declaration Form No.</b>	SC-5 SC-5A for Independent Candidates	SC-6 SC-6A for Independent Candidates
<b>Petition Form No.</b>	SC-7 SC-7A for Independent Candidates	SC-7 SC-7A for Independent Candidates
<b>Campaign Disclosure</b>	Secretary of State; C-1 Form & Reports	Secretary of State; C-1 Form & Reports

## FEDERAL & STATE CANDIDATE FILING REQUIREMENTS

### COURT POSITIONS

Office	Supreme Court	Appellate Court	District Court
<b>Statutory Reference</b>	Sec 1-2404 & Sec 34-615, I.C.	Sec 1-2404, I.C.	Sec 34-616, I.C.
<b>Qualifications Residency</b>	2 yrs. within state preceding election; US citizen; admitted to the practice of law within state at least 10 yrs. prior to taking office; admitted to the practice of law within the state 2 yrs. preceding election	2 yrs. within state preceding election; US citizen; admitted to the practice of law for at least 10 yrs. prior to taking office; admitted to the practice of law within the state 2 yrs preceding election	2 yr. within judicial dist. preceding election; US citizen; admitted to the practice of law for at least 10 yrs. prior to taking office; admitted to the practice of law within the state
<b>Age</b>	30	30	30
<b>Filing Fee</b>	\$300	\$300	\$150
<b>Petition Signatures</b>	1,000 verified prior to filing	1,000 verified prior to filing	200 verified prior to filing
<b>Declaration Form No.</b>	SC-3	SC-3	SC-3A
<b>Petition Form No.</b>	SC-4	SC-4	SC-4
<b>Campaign Disclosure</b>	Secretary of State; C-1 Form & Reports	Secretary of State; C-1 Form & Reports	Secretary of State; C-1 Form & Reports

### TELEPHONE NUMBERS

Secretary of State	*FEC (Federal Election Commission)
(208) 334-2852	(800) 424-9530

# County Candidate Filing Requirements

**FILING PERIOD:** February 26 — March 9 at 5:00 PM

A partisan candidate has two options to be placed on the ballot: (1) File declaration of candidacy and pay the filing fee or (2) In lieu of paying the filing fee, file a nominating petition, with a certain number of verified signatures and declaration of candidacy.

Independent candidates do not have the two options. An independent candidate must file the declaration and petition.

Independent candidates do not pay a filing fee.

The required declaration & petitions/filing fee must be received by County Clerk no later than 5:00 PM March 13, 2020.

Office	County Commissioner District 1 ( <i>4 year term</i> ) District 2 ( <i>2 year term</i> )	Sheriff	County Clerk
Statutory Reference	Sec 34-617, I.C.	Sec 34-618, I.C.	Sec 34-619, I.C.
Qualifications Residency	1yr. within County preceding general election; US citizen; 90 days in district which he/she represents prior to primary election	1 yr within County preceding general election; US citizen	1 yr within County preceding general election; US citizen
Age	21	20	21
Filing Fee	\$40	\$40	\$40
Petition Signatures	5 from Comm. district verified prior to filing	5 from County verified prior to filing	5 from County verified prior to filing
Declaration Form No.	EC-10 EC-11 for Independent Candidates	EC-10 EC-11 for Independent Candidates	EC-10 EC-11 for Independent Candidates
Petition Form No.	EC-10A EC-11A for Independent Candidates	EC-10A EC-11A for Independent Candidates	EC-10A EC-11A for Independent Candidates
Campaign Disclosure	County Clerk; C-1 Form & Reports	County Clerk; C-1 Form & Reports	County Clerk; C-1 Form & Reports

## COUNTY CANDIDATE FILING REQUIREMENTS

Office	County Treasurer	County Assessor	County Coroner
<b>Statutory Reference</b>	Sec 34-620, I.C.	Sec 34-621, I.C.	Sec 34-622, I.C.
<b>Qualifications Residency</b>	1 yr within County preceding general election; US citizen	1 yr within County preceding general election; US citizen	1 yr within County preceding general election; US citizen
<b>Age</b>	21	21	21
<b>Filing Fee</b>	\$40	\$40	\$40
<b>Petition Signatures</b>	5 from County verified prior to filing	5 from County verified prior to filing	5 from County verified prior to filing
<b>Declaration Form No.</b>	EC-10 EC-11 for Independent Candidates	EC-10 EC-11 for Independent Candidates	EC-10 EC-11 for Independent Candidates
<b>Petition Form No.</b>	EC-10A EC-11A for Independent Candidates	EC-10A EC-11A for Independent Candidates	EC-10A EC-11A for Independent Candidates
<b>Campaign Disclosure</b>	County Clerk; C-1 Form & Reports	County Clerk; C-1 Form & Reports	County Clerk; C-1 Form & Reports

Office	Prosecuting Attorney	Precinct Committee Person	Magistrate Judge*
<b>Statutory Reference</b>	Sec 34-623, I.C.	Sec 34-624, I.C.	Sec 1-2206 & Sec 1-2220, I.C.
<b>Qualifications Residency</b>	Admitted to practice law in the state; US citizen; qualified elector in County	6 months within in precinct preceding primary election; US citizen	See Code Section
<b>Age</b>	21	18	30
<b>Filing Fee</b>	\$40	N/A	\$40
<b>Petition Signatures</b>	5 from County	N/A	N/A
<b>Declaration Form No.</b>	EC-10 EC-11 for Independent Candidates	EC-10P	EC-4A
<b>Petition Form No.</b>	EC-10A EC-11A for Independent Candidates	N/A	N/A
<b>Campaign Disclosure</b>	County Clerk; C-1 Form & Reports	N/A	County Clerk; C-1 Form & Reports

\* Last day for Magistrates up for retention to file declarations of candidacy with the County Clerk for the General Election is August 5, 2020. (Sec. 1-2220, Idaho Code)





# **Section I**

## **Constitutional & Statutory References**





# Constitution Of The State Of Idaho

## *Article VI: Suffrage and Elections*

**SECTION 1. SECRET BALLOT GUARANTEED.** All elections by the people must be by ballot. An absolutely secret ballot is hereby guaranteed, and it shall be the duty of the legislature to enact such laws as shall carry this selection into effect.

**SECTION 2. QUALIFICATIONS OF ELECTORS.** Every male or female citizen of the United States, eighteen years old, who has resided in this state, and in the county where he or she offers to vote for the period of time provided by law, if registered as provided by law, is a qualified elector.

**SECTION 3. DISQUALIFICATION OF CERTAIN PERSONS.** No person is permitted to vote, serve as a juror, or hold any civil office who has, at any place, been convicted of a felony, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense.

**SECTION 4. LEGISLATURE MAY PRESCRIBE ADDITIONAL QUALIFICATIONS.** The legislature may prescribe qualifications, limitations, and conditions for the right of suffrage, additional to those prescribed in this article, but shall never annul any of the provisions in this article contained.

**SECTION 5. RESIDENCE FOR VOTING PURPOSES NOT LOST OR GAINED.** For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this state, or of the United States, nor while engaged in the navigation of the waters of this state or of the United States, nor while a student of any institution of learning, nor while kept at any alms house or other asylum at the public expense.

**SECTION 6. RECALL OF OFFICERS AUTHORIZED.** Every public officer in the state of Idaho, excepting the judicial officers, is subject to recall by the legal voters of the state or of the electoral district from which he is elected. The legislature shall pass the necessary laws to carry this provision into effect.

**SECTION 7. NONPARTISAN SELECTION OF SUPREME AND DISTRICT JUDGES.** The selection of justices of the Supreme Court and district judges shall be nonpartisan. The legislature shall provide for their nomination and election, but candidates for the offices of justice of the Supreme Court and district judge shall not be nominated nor endorsed by any political party and their names shall not appear on any political party ticket, nor be accompanied on the ballot by any political party designation.



**Idaho Code**  
**Title 34**  
**Elections**





# Chapter 1: Definitions

**34-101. “General election” defined — Offices to be filled — Constitutional amendments.** “General election” means the national, state and county election held on the first Tuesday succeeding the first Monday of November in each even-numbered year.

At these elections there shall be chosen all congressional, state and county officers, including electors of president and vice-president of the United States, as are by law to be elected in such years.

All amendments to the Idaho Constitution shall be submitted to the voters for their approval at these elections.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 194

**34-102. “Primary election” defined — Purposes.** (1) “Primary election” means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties. Primary elections, with the exception of presidential primaries, shall be held on the third Tuesday of May in each even-numbered year.

(2) “Presidential primary” means an election held for the purpose of allowing voters to express their choice of candidate for nomination by a political party for president of the United States. A presidential primary shall be held on the second Tuesday in March in each presidential election year.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 194; S.L. 1975, Ch. 174; S.L. 1979, Ch. 309; S.L. 2011, Ch. 11; S.L. 2012, Ch. 33; S.L. 2015, Ch 292

**NOTE 34-102:** The purpose of a primary election is to nominate persons as candidates of political parties for election to offices at the general election. The primary election is to be held on the 3rd Tuesday of May in each even numbered year.

Presidential primary elections are to be held on the second Tuesday in March in each presidential election year.

Independent candidates are not involved in partisan primary elections.

**34-103. “Special election” defined.** “Special election” means any election other than a general or primary election held at any time for any purpose provided by law.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 194

**34-104. “Qualified elector” defined.** “Qualified elector” means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 194; S.L. 1972, Ch. 350; S.L. 1973, Ch. 304; S.L. 1982, Ch. 253

**NOTE 34-104:** The definition of a qualified elector requires that the elector be registered as required by law.

**34-105. “Registered elector” defined.** “Registered elector”, for the purpose of this act, means any “qualified elector”.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 194

**34-106. Limitation upon elections.** On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor’s proclamation.

(1) The dates on which elections may be conducted are:

(a) The third Tuesday in May of each year; and

(b) The Tuesday following the first Monday in November of each year.

(c) In addition to the elections specified in paragraphs (a) and (b) of this subsection and subsection (7) of this section, an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property.

(d) In addition to the elections specified elsewhere in this section, a presidential primary shall be held on the second Tuesday in March in each presidential election year. Presidential primaries shall be held separately from other primary elections, which shall be held on the third Tuesday in May even in presidential election years.

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(2) Candidates for office elected in May shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution, or on January 1, next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section, which, prior to January 1, 2011, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section, shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section which falls nearest the date on which elections were previously conducted, unless another date is established by law.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules or interpretations for the conduct of election authorized under the provisions of this section.

(6) Water districts governed by chapter 6, title 42, *Idaho Code*, are exempt from the provisions of this section.

(7) Community colleges governed by chapter 21, title 33, *Idaho Code*, and school districts are subject to the limitations specified in subsection (1) of this section, except that school districts may also hold an election on the second Tuesday in March of each year and on the last Tuesday in August of each year on bonded indebtedness and property tax levy questions.

(8) A city initiative or referendum election shall be held on the Tuesday following the first Monday in November of odd-numbered years. A county initiative or referendum election or a bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than sixty (60) days after the clerk of the political subdivision orders that such election shall be held in May or November of even-numbered years or more than fifty (50) days after the order for all other elections, unless otherwise provided by law. Ballot language for any question to be placed on the ballot shall be submitted to the county clerk at least sixty (60) days before an election held in May or November of even-numbered years and at least fifty (50) days before all other elections.

(9) Recall elections may be held on any of the four (4) dates authorized in subsections (1) and (7) of this section that fall more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held.

(10) Irrigation districts governed by title 43, *Idaho Code*, are subject to the limitations specified in subsection (1) of this section, except that irrigation districts may also hold an election on the first Tuesday in February of each year and on the first Tuesday in August of each year on questions required to be voted upon by title 43, *Idaho Code*.

**History:** S.L. 1992, Ch. 176; S.L. 1993, Ch. 313; S.L. 2007, Ch. 92; S.L. 2009, Ch. 341; S.L. 2010, Ch. 185; S.L. 2011, Ch.11; S.L. 2013, Ch. 135; S.L. 2015, Ch. 285 and 292; S.L. 2018, Ch. 238

**NOTE 34-106:** This section is the cornerstone of election consolidation. Two (2) authorized dates for elections are set out in Sub-section 1. All candidate elections along with initiative, referendum, bond, levy and any other ballot question elections, can only be conducted on one of the two authorized dates in Section 1. However, recall elections and school bond or levy elections may be held on either dates authorized in Section 1 or the second Tuesday in March or the last Tuesday of August of each year. Sub-section (1)(c) does allow for an emergency election to be conducted on a date other than an authorized date. (The consolidated date schedule does not apply to Water Districts governed by Title 42, Chapter 6, or groundwater districts.) Irrigation districts are allowed additional election dates and are addressed in subsection 10.

A special time frame for initiative, referendum, bond, levy and any other ballot question elections is in Section (8) and requires that the election date fall more than 60 days after the order of election if held in May and November of even-numbered years and 50 days for all other elections, unless otherwise provided by law. Ballot language for any question must be submitted to the County Clerk at least 60 days before the election held in May and November of even-numbered years and at least 50 days for all other elections.

A special time frame is also set out in Sub-section (9) for recall elections and also requires that the election date fall more than 45 days after the clerk of the political subdivision orders the election.

### 34-106A. [Repealed - S.L. 1972, Ch. 350]

**34-107. "Residence" defined.** (1) "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-602G, *Idaho Code*, is filed, and motor vehicle registration.

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(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.

(4) A qualified elector shall not be considered to have gained a residence in any county or city of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 194; S.L. 1982, Ch. 215; S.L. 1989, Ch. 147; S.L. 1996, Ch. 322

**NOTE 34-107:** Residency for voting purposes is defined. The criteria listed in (2) helps determine residency.

Although an elector does not live at the address at which the elector is registered does not make the registration invalid. An elector can be temporarily away from the registered address but if the elector has not registered elsewhere or has not claimed a different address (for example on a homeowner exemption form) the elector can continue to be registered there if the elector “has the present intention of returning...regardless of the duration of absence.”

Also, see the Secretary of State’s Office Directive regarding Students in Section II on page J-23.

**34-108. “Election official” defined.** “Election official” means the secretary of state, any county clerk, registrar, election duties as required by law.

**History:** S.L. 1970, Ch. 140 judge of election, clerk of election, canvassing board or board of county commissioners engaged in the performance of; S.L. 1971, Ch. 194

**34-109. “Political party” defined.** “Political party” means an affiliation of electors representing a political group under a given name as authorized by law.

**History:** S.L. 1970, Ch. 140

**NOTE 34-109:** See Ch. 5, Political Parties in Title 34 beginning on page B5-1.

**34-110. “Election register” defined.** “Election register” means the voter registration cards of all electors who are qualified to appear and vote at the designated polling places.

**History:** S.L. 1970, Ch. 140

**34-111. “Combination election record and poll book” defined — Operation.** (1) “Combination election record and poll book” means the book containing a listing of registered electors who are qualified to appear and vote at the designated polling places. An additional copy of the combination election record and poll book may be maintained to record that the elector has voted.

(2) The county clerk shall deliver to the chief election judge in each precinct, as other election supplies and materials are delivered, a list in alphabetical order of all registered electors referred to in section 34-110, *Idaho Code*. This list shall constitute the combination election record and poll book of each precinct. This list shall include the residence address of each elector. For any given precinct, the list may be divided into two (2) or more separate parts and shall be alphabetical according to the name of the registered elector.

(3) The county clerk shall administer an oath of office to the chief judge of each precinct, before or upon delivering supplies. The county clerk may delegate his authority to administer oath of the chief judge to any officer authorized to administer oaths, including notaries public.

(4) Before entering upon the discharge of their duties, the election judges shall take and subscribe an oath in the combination election record and poll book. Such oaths shall be administered by the chief judge of the precinct. Should the chief judge fail to be present any officer authorized to administer oaths including notaries public may administer oaths to the election judges. Blank oaths of office shall be attached to the combination election record and poll book.

(5) The combination election record and poll book shall be in the manner and form prescribed by the secretary of state.

(6) Immediately after the close of the polls, the names of the electors who voted shall be counted and the number written and certified in the combination election record and poll book. The combination election record and poll book shall be immediately signed by each of the election board judges.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 350; S.L. 1982, Ch. 137

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**NOTE 34-111:** The combination election record and poll book is the book the elector signs at the polls. The County Clerk prepares such a book for each precinct, which lists all registered voters in that precinct in alphabetical order. This list includes the residence address of the elector, unless the clerk has determined there is cause to protect it. (See 9-340C(25) on page E-1 in Section I.)

The front of the poll book is designed by the Secretary of State. The oath on the front of the poll book is taken and subscribed to by each election judge at the polls. All information requested on the poll book cover is completed by the election judges prior to returning the poll book to the County Clerk at the close of the polls.

This section gives the County Clerk the option to either have two combination election record and poll books or a combination election record and poll book and a list of registered voters on which to record that the elector has voted.

Election record poll books are retained for 5 years in compliance with 34-217.

**34-111A. “Electronic poll book” defined.** “Electronic poll book” means an electronic list of registered voters for a particular precinct or polling location that may be transported to the polling location. The electronic poll book shall contain the same information as the combination election record and poll book as defined in this chapter.

**History:** S.L. 2015, Ch. 282

**34-112. “County clerk” defined.** “County clerk” means the clerk of the district court.

**History:** S.L. 1970, Ch. 140

**34-113. “Candidate” defined.** “Candidate” means and includes every person for whom it is contemplated or desired that votes be cast at any political convention, primary, general or special election, and who either tacitly or expressly consents to be so considered, except candidates for president and vice-president of the United States.

**History:** S.L. 1970, Ch. 140

**34-114. “Tally book” or “tally list” defined.** “Tally book” or “tally list” means the forms in which the votes cast for any candidate or special question are counted and totaled at the polling precinct.

**History:** S.L. 1970, Ch. 140

**34-115. References to male include female and masculine includes feminine.** All references to the male elector includes [include] the female elector and the masculine pronoun includes the feminine.

**History:** S.L. 1970, Ch. 140

**34-116. Calendar days used in computation of time.** Calendar days shall be used in all computations of time made under the provisions of this act. In computing time for any act to be done before any election, the first day shall be included and the last, or election day, shall be excluded. Sundays, Saturdays and legal holidays shall be included, but if the time for any act to be done shall fall on Sunday, Saturday or a legal holiday, such act shall be done upon the day following such Sunday, Saturday or legal holiday.

**History:** S.L. 1970, Ch. 140; S.L. 1995, Ch. 215

**NOTE 34-116:** A deadline falling on a Sunday, Saturday or a legal holiday, moves to the following day. In computing time for any act to be done before any election, the first day is included and the last day, or election day, is excluded.

**34-117. “Judicial nominating election” defined.** “Judicial nominating election” means an election held for the purpose of selecting justices of the supreme court and judges of the district court as are by law to be selected at such election. This election shall be held on the date of the statewide primary election.

**History:** S.L. 1971, Ch. 194

## Chapter 2: Duties Of Officers

**34-201. Secretary of state chief election officer.** The secretary of state is the chief election officer of this state, and it is his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws.

The secretary of state is responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed service voters and overseas voters with respect to elections for federal office as required by section 102 of the uniformed and overseas citizens absentee voting act (42 U.S.C. section 1973 et seq.).

If a national or local emergency or other situation arises which makes substantial compliance with the provisions of the uniformed and overseas citizens absentee voting act impossible or unreasonable, such as a natural disaster or an armed conflict involving United States armed forces, mobilization of those forces, including state national guard and reserve components of this state, the secretary of state may prescribe, by directive, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in this state.

**History:** S.L. 1970, Ch. 140; S.L. 2003, Ch. 48

**NOTE 34-201:** Requires the Secretary of State to provide information on registration and absentee voting procedures to individuals covered by the Uniformed & Overseas Citizens Absentee Voting Act (UOCAVA).

Allows alternative methods of casting an absentee ballot in the event the Secretary of State declares an emergency exists.

**34-202. Secretary of state to distribute comprehensive directives and instructions relating to election laws to all county clerks.** In carrying out his responsibility under section 17 [34-201], [*Idaho Code*,] the secretary of state shall cause to be prepared and distributed to each county clerk detailed and comprehensive written directives and instructions relating to and based upon the election laws as they apply to elections, registration of electors and voting procedures which by law are under the direction and control of the county clerk. Such directives and instructions shall include sample forms of ballots, papers, documents, records and other materials and supplies required by such election laws. The secretary of state shall prescribe a form for voter registration cards based on the voter registration laws and, from time to time, shall cause to be prepared and distributed to each county clerk such written corrections of such directives and instructions and of the form for registration cards as are necessary to maintain uniformity in the application, operation and interpretation of and to reflect changes in the election laws. Each county clerk affected thereby shall comply with such directives and instruction, and corrections thereof, and shall provide voter registration cards prepared in accordance with the prescribed form.

**History:** S.L. 1970, Ch. 140

**NOTE 34-202:** The Secretary of State issues directives, instructions and promulgates forms relating to the election laws. The County Clerk complies with said directives and instructions in order to maintain uniformity.

See Section II for Secretary of State Directives.

**34-203. Assistance and advice to county clerks.** In carrying out his responsibility under section 17 [34-201], [*Idaho Code*,] the secretary of state shall assist and advise each county clerk with regard to the application, operation and interpretation of the election laws as they apply to elections, registration of electors and voting procedures which by laws are under the direction and control of the county clerk.

**History:** S.L. 1970, Ch. 140

**34-204. Conferences with county clerks on administration of election laws.** In carrying out his responsibility under section 34-201, *Idaho Code*, the secretary of state shall cause to be organized and conducted at convenient places and times in this state at least three (3) conferences on the administration of the election laws. The secretary of state shall cause written notice of the place and time of each conference to be given to each county clerk. Each county clerk or his designated deputy shall attend at least one (1) of the conferences and shall comply with the instructions given under the authority of the secretary of state at each conference such county clerk attends.

**History:** S.L. 1970, Ch. 140; S.L. 2015, Ch 292

**NOTE 34-204:** Each County Clerk or a designated deputy must attend at least one conferences on election law and administration conducted by the Secretary of State each year.

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### **34-205. Duties of secretary of state relating to election laws.** The secretary of state shall:

- (1) Prepare and cause to be printed, in appropriate and convenient form, periodic compilations and digests of the election laws.
- (2) Distribute in appropriate quantities to the county clerks for use by such county clerks and by election boards, copies of such compilations and digests and the sample form of such supplies and materials necessary to conduct elections as the secretary of state considers appropriate, including poll books, tally sheets, return sheets and abstract of vote sheets.
- (3) Make such compilations and digests available for distribution, free or at cost, to interested persons.

**History:** S.L. 1970, Ch. 140

**34-206. General supervision of administration of election laws by county clerks.** Subject to and in accordance with the directives and instructions prepared and distributed or given under the authority of the secretary of state, each county clerk shall exercise general supervision of the administration of the election laws by each local election official in his county for the purpose of achieving and maintaining a maximum degree of correctness, impartiality, efficiency and uniformity in such administration by local election officials. Such directives and instructions shall be directed to and shall be complied with by each local election official affected thereby.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 69

**NOTE 34-206:** Supervision of the administration of election laws by the Secretary of State is to facilitate correctness and uniformity in the administration by the County Clerks & election boards. This section requires the Chief election official of the county to follow instructions and directions issued by the Secretary of State.

### **34-207. [Repealed - S.L. 1971, Ch. 69]**

**34-208. Duties of county clerks relating to supervision of election laws.** In carrying out his exercise of general supervision under section 34-206, each county clerk shall:

- (1) Require that each local election official shall use such ballots, papers, documents, records and other materials and supplies as directed by the secretary of state.
- (2) Require each local election official in his county to submit reports pertaining to the administration of the election laws by such local election official. Each local election official shall comply with any such requirement.
- (3) Inspect and observe the administration of the election laws by any local election official in his county at any time he deems necessary.
- (4) Carry on a program of in-service training for local election officials in his county by periodically distributing to them such bulletins, manuals and other informational instructional materials and by establishing and conducting such classes of instruction pertaining to the administration of the election laws by local election officials as the county clerk considers desirable.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 69

**NOTE 34-208:** The County Clerk carries on a program of in-service training for local election officials in their respective county. Instructions and directives from the Secretary of State to the County Clerk are to be relayed to the local election officials.

**34-209. Powers of county clerks.** (1) The county clerk may employ such personnel and procure such equipment, supplies, materials, books, papers, records and facilities of every kind as he considers necessary to facilitate and assist in carrying out his functions in connection with administering the election laws; except that procurement of voting machines or vote tally systems shall be conducted in accordance with the provisions of section 34-2405, *Idaho Code*.

(2) The necessary expenses incurred by the county clerk in administering the election laws, including reasonable rental for polling places, shall be allowed by the board of commissioners and paid out of the county treasury.

(3) The county clerk and his deputies may administer oaths and affirmations in connection with the performance of their functions in administering the election laws.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 131

**NOTE 34-209:** Authorizes the County Clerk and deputies to administer oaths and affirmations in administering elections.

Refers to the County Commissioners involvement in selecting a vote tally system.

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**34-210. Preparation of ballots, papers, documents, records, and other materials and supplies required.** Subject to any applicable election law, the county clerk may devise, prepare and use in his administration of the election laws the ballots, papers, documents, records and other materials and supplies required or permitted by the election laws or otherwise necessary in such administration by such county clerk.

**History:** S.L. 1970, Ch. 140

**34-211. Office of county clerk open as long as polls are open.** On the day of any general, special or primary election held throughout the county, the county clerk shall keep his office open for the transaction of business pertaining to the election from the time the polls are opened in the morning continuously until the polls are closed.

**History:** S.L. 1970, Ch. 140

**NOTE 34-211:** Requires the County Clerk's office on the day of a primary, general or special election to be open until the polls close.

**34-212. Reports to prosecuting attorney of noncompliance with election laws by county clerk.** (1) Any person having knowledge of any failure of a county clerk to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state may notify the prosecuting attorney of the county. Upon receipt of such notification the prosecuting attorney shall proceed immediately to investigate the alleged failure of the county clerk to comply. Upon the conclusion of the investigation the prosecuting attorney shall advise and direct the county clerk with regard to how he must proceed in connection with the matter. The county clerk shall proceed immediately to comply with the directive of the prosecuting attorney.

(2) If the prosecuting attorney, upon the conclusion of an investigation under subsection (1) of this section, determines that the county clerk has failed to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state, and that such failure to comply involves a violation by the county clerk of any statute, the violation of which is punishable by a criminal penalty or forfeiture of office, the prosecuting attorney shall promptly proceed to prosecute such violation by the county clerk.

(3) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against a county clerk who fails to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state, or who violates any statute.

**History:** S.L. 1970, Ch. 140

**NOTE 34-212:** Provides for investigation by the County Prosecuting Attorney if the County Clerk is not in compliance with the Secretary of State's directives.

**34-213. Mandamus to enforce compliance by county clerk.** (1) Whenever it appears to the secretary of state that a county clerk has failed to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state, the secretary of state may apply to the appropriate district court or a judge thereof for a writ of mandamus to compel the county clerk to comply with such directive or instruction. In any such mandamus proceeding it is a defense that the directive or instruction in question is unlawful.

(2) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against a county clerk who fails to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state.

**History:** S.L. 1970, Ch. 140

**34-214. Noncompliance by local county election officials — Enforcement by county clerk.** (1) Whenever it appears to a county clerk that any local election official in his county has failed to comply with any election law or any directive or instruction prepared and issued by the county clerk, the county clerk may issue an order to such local election official. The order shall specify in what manner the local election official has failed to comply, indicate the proper manner of compliance and direct the local election official to so comply with such law or directive or instruction within a designated reasonable time.

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(2) If the local election official fails to comply as directed by the order of the county clerk, the county clerk may apply to a judge of the district court for the county in which the county clerk holds office for an order, returnable within five (5) days from the date thereof, to compel the local election official to comply with the order of the county clerk or to show cause why he should not be so compelled. Upon receipt of the application of the county clerk the judge shall issue the appropriate order, which shall be final. The judge shall dispose of the matter as soon as possible and not more than ten (10) days after his order is returned by the local election official.

(3) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against the noncomplying local election official.

**History:** S.L. 1970, Ch. 140

**34-215. Appeals by aggrieved persons.** (1) Any person adversely affected by any act or failure to act by the secretary of state or a county clerk under any election law, or by any order, rule, regulation, directive or instruction made under the authority of the secretary of state or of a county clerk under any election law, may appeal therefrom to the district court for the county in which the act or failure to act occurred or in which the order, rule, regulation, directive or instruction was made or in which such person resides.

(2) Any party to the appeal proceedings in the district court under subsection (1) of this section may appeal from the decision of the district court to the supreme court.

(3) The district courts and supreme court, in their discretion, may give such precedence on their dockets to appeals under this section as the circumstances may require.

(4) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against any act or failure to act by the secretary of state or a county clerk under any election law or against any order, rule, regulation, directive or instruction made under the authority of the secretary of state or a county clerk under any election law.

**History:** S.L. 1970, Ch. 140

**NOTE 34-215:** Provides for appeal to the district court by any person adversely affected by any election law.

**34-216. Grievance procedures.** The secretary of state shall promulgate rules in compliance with chapter 52, title 67, *Idaho Code*, establishing state-based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252).

**History:** S.L. 2003, Ch. 48

**NOTE 34-216:** Provides a grievance procedure to address possible violations of the federal Help America Vote Act of 2002. The procedures are laid out in Idaho Administrative Rules 34.02.02 and is available from the office of the Secretary of State.

Grievances filed under this section deal with voter registration and vote tabulation equipment. This does not affect contested election procedures.

**34-217. Retention of county election records.** County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

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

- (a) Voter registration cards for electors whose registration has been terminated;
- (b) Correspondence relating to an elector's voter registration;
- (c) Combination election record and poll book, including the ballot accounting page;
- (d) Declaration of candidacy and petition of candidacy forms filed with the county clerk;
- (e) Maps of precinct boundaries with legal descriptions;
- (f) List of absentee voters; and
- (g) County initiatives and petitions that qualify for placement on the ballot.

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

- (a) Completed absentee ballot request forms;
- (b) Tally books;
- (c) Voted ballots;
- (d) Any ballots that were required to be duplicated before being counted;
- (e) Certified lists of candidates or declaration of candidacy forms from special districts used for ballot preparation; and

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- (f) Certified ballot language from special districts for any question placed on the ballot.
- (3) The following shall be maintained for one (1) year:
  - (a) Absentee ballot affidavit envelopes;
  - (b) Notice of election;
  - (c) Personal identification affidavit;
  - (d) Ballot tracking logs;
  - (e) Automated tabulation election logs;
  - (f) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device; and
  - (g) Record of the number of ballots printed and furnished to each polling place.
- (4) Other election supplies including, but not limited to, unused ballots, official election ballot identification or official ballot stamps, receipts for supplies and spoiled ballots may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, *Idaho Code*.

**History:** S.L. 2011, Ch. 285; S.L. 2012, Ch. 211; S.L. 2013 Ch. 285; S.L. 2018 Ch. 78



## Chapter 3: Election Precincts And Judges

**34-301. Establishment of election precincts by county commissioners — Lists and maps to be furnished to secretary of state.** (1) The board of county commissioners in each county shall establish a convenient number of election precincts therein. The board of county commissioners may establish an absentee voting precinct for each legislative district within the county. The boundaries of such absentee precincts shall be the same as those of the legislative districts for which they were established. The board shall have the authority to create new or consolidate established precincts only within the boundaries of legislative districts. No county shall have less than two (2) precincts. This board action shall be done no later than January 15 in a general election year. The January 15 deadline shall be waived during a general election year in which a legislative or court-ordered redistricting plan is adopted. In such cases, any precinct boundary adjustments shall be accomplished by the county commissioners as soon as is practicable.

(2) The county clerk of each county shall provide, and the secretary of state shall maintain in his office, a current and accurate report of the following:

- (a) A list of all precincts within the county;
- (b) A map and description of all precincts within the county;
- (c) A count of voters registered for the latest general election, by precinct; and
- (d) A count of votes cast at the latest general election, by precinct.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 210; S.L. 1972, Ch. 141; S.L. 1973, Ch. 177; S.L. 1974, Ch. 212; S.L. 1976, Ch. 73; S.L. 1977, Ch. 8; S.L. 1992, Ch. 152; S.L. 2009, Ch. 52; S.L. 2019, Ch. 96

**NOTE 34-301:** Any precinct changes must be within the boundaries of a legislative district. Changes in precinct boundaries must be made not later than January 15 in an even numbered year. The County Clerk supplies a listing of precincts, a map and a plain language description of all precincts within the county to the Secretary of State.

An absentee precinct is authorized for each legislative district within the county. Absentee precincts are used in tabulating election results

**34-302. Designation of precinct polling places.** [EFFECTIVE UNTIL JULY 1, 2020] The board shall, by the fifth Friday before any election, designate a suitable polling place for each election precinct. Insofar as possible, the board shall designate the same polling place for the general election that it designated for the primary election. The physical arrangements of the polling place shall be sufficient to guarantee all voters the right to cast a secret ballot. All polling places designated as provided herein shall conform to the accessibility standards adopted by the secretary of state pursuant to the voting accessibility for the elderly and handicapped act, 52 U.S.C. 20101 et seq. The expense of providing such polling places shall be a public charge and paid out of the county treasury.

**34-302. Designation of precinct polling places.** [EFFECTIVE JULY 1, 2020] The board shall, by the fifth Friday before any election, designate a suitable polling place for each election precinct. Insofar as possible, the board shall designate the same polling place for the general election that it designated for the primary election. The physical arrangements of the polling place shall be sufficient to guarantee all voters the right to cast a secret ballot. Public school facilities shall be made available to the board as precinct polling places. All polling places designated as provided herein shall conform to the accessibility standards adopted by the secretary of state pursuant to the voting accessibility for the elderly and handicapped act, 52 U.S.C. 20101 et seq. The expense of providing such polling places shall be a public charge and paid out of the county treasury.

**History:** S.L. 1970, Ch. 140; S.L. 1973, Ch. 304; S.L. 1978, Ch. 38; S.L. 1985, Ch. 115; S.L. 2019, Ch. 96; S.L. 2019, Ch. 283

**NOTE 34-302:** County commissioners designate a suitable polling place for each precinct not less than 30 days before an election. In actuality, the County Clerk makes arrangements for polling places for the county commissioners to approve.

See Secretary of State Directives, page J-24, for the accessibility standards.

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**34-303. Appointment of election judges by county clerk.** (1) The county clerk shall appoint two (2) or more election judges, one (1) of whom shall be designated chief judge, and the number of clerks deemed necessary by him for each polling place. In the event a single polling place is designated for two (2) or more precincts, an individual may serve simultaneously on the election board for two (2) or more precincts thus served by a single polling place. The precinct committeemen shall recommend persons for the position in their respective precincts to the county clerk in writing by the fifth Friday prior to the primary election and the county clerk shall appoint the judges from such lists if the persons recommended are qualified.

(2) The chief election judge shall be responsible for the conduct of the proceedings in the polling place. Compensation for all election personnel shall be determined by the board of county commissioners at no less than the minimum wage as prescribed by the laws of the state of Idaho.

(3) Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts by the prescribed deadline.

(4) In order to provide for a greater awareness of the election process, the rights and responsibilities of voters and the importance of participating in the electoral process, as well as to provide additional members of precinct boards, a county clerk may appoint not more than two (2) students per precinct to serve under the direct supervision of election board members designated by the county clerk. A student may be appointed, notwithstanding lack of eligibility to vote, if the student possesses the following qualifications:

- (a) Is at least sixteen (16) years of age at the time of the election for which he or she is serving as a member of an election board; and
- (b) Is a citizen of the United States.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 210; S.L. 1977, Ch. 8; S.L. 2003, Ch. 48; S.L. 2004, Ch. 113; S.L. 2018, Ch. 154; S.L. 2019, Ch. 96

**NOTE 34-303:** The County Clerk is to notify the various precinct committeemen of their ability to recommend people to serve as poll workers. With the exception of students, there are no statutory requirements or restrictions for someone to serve as a poll worker.

If a list of applicants has been provided to the County Clerk by the precinct committeemen of the precincts at least 60 days prior to the primary, then each election board will contain personnel representing all existing political parties.

Requires not less than minimum wage compensation for election personnel.

Allows for the County Clerk to appoint up to 2 students as poll workers per precinct. The students must be at least 17 years of age at the time of the election for which he or she is serving as a poll worker and must be a U.S. citizen.

**34-304. Challengers — Watchers.** The county clerk shall, upon receipt of a written request, such request to be received no later than twelve (12) days prior to the day of election, direct that the election judges permit one (1) person authorized by each political party, if the election is a partisan election, to be at the polling place for the purpose of challenging voters, and shall, if requested, permit any one (1) person authorized by a candidate, several candidates or political party, to be present to serve as a watcher to observe the conduct of the election. Such authorization shall be evidenced by a writing signed by the county chairman and secretary of the political party, if the election is a partisan election, or by the candidate or candidates, and filed with the county clerk. Where the issue before the electors is other than the election of officers, the clerk shall, upon receipt of a written request, such request to be received no later than twelve (12) days prior to the date of voting on the issue or issues, direct that the election judges permit one (1) pro and one (1) con person to be at the polling place for the purpose of challenging voters and to observe the conduct of the election. Such authorization shall be evidenced in writing signed by the requesting person and shall state which position relative to the issue or issues the person represents. Persons who are authorized to serve as challengers or watchers shall wear a visible name tag which includes their respective titles. A watcher is entitled to observe any activity conducted at the location at which the watcher is serving, provided however, that the watcher does not interfere with the orderly conduct of the election. If the watchers are present at the polling place when ballots are counted they shall not absent themselves until the polls are closed. A watcher serving at a central counting station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. If the county clerk does not receive the list of names of those desired to be present for the purpose of either poll watching or challenging within the time prescribed above, the clerk shall not allow the presence of such persons later seeking to serve in those capacities.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 141; S.L. 1973, Ch. 304; S.L. 2006, Ch. 70; S.L. 2009, Ch. 341

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**NOTE 34-304:** Challengers and Watchers are permitted in the polling place only if a request is received in writing by the County Clerk at least 12 days before the election. A political party may request a challenger and a watcher for any partisan election. Any candidate may have a representative serve as a watcher to observe the conduct of the election.

Watchers in hand count paper ballot counties who wish to watch the counting of the ballots are not permitted to leave the counting room until after the polls close. Challengers and Watchers must wear a name tag with title.

Challengers and watchers are also permitted during an issue election. The County Clerk may designate one pro and one con person to be at the polling place for the purpose of challenging voters and to observe the conduct of the election.

For the Secretary of State's Directive, see pgs J-15 - J-17.

**34-305. County clerk chief county elections officer.** The county clerk is the chief elections officer of his county and it is his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws. The county clerk shall comply with the lawful directives and instructions given him by the secretary of state.

**History:** S.L. 1971, Ch. 210

**NOTE 34-305:** Statute which identifies the County Clerk as the chief election officer of the county.

**34-306. Precinct boundary requirements.** (1) Precinct boundaries shall follow visible, easily recognizable physical features, on the ground including, but not limited to, streets, railroad tracks, roads, streams, and lakes. The exception shall be when a precinct boundary coincides with a city, county, Indian reservation or school district boundary which does not follow a visible feature.

(2) In order to achieve compliance with the requirements of this section, and simultaneously maintain legislative district boundaries which may not follow visible features, a county may designate subprecincts within precincts, the internal boundaries of which do not follow visible features.

**History:** S.L. 1977, Ch. 8; S.L. 1989, Ch. 261; S.L. 1992, Ch. 284

**NOTE 34-306:** Precinct boundaries must follow visible, easily recognizable physical features.

**34-307. Precinct boundaries maintained.** From January 15 in any year ending in 8 through September 15 in any year ending in 1, the board of county commissioners shall make no changes in precinct boundaries, except that a single precinct may be divided into two (2) or more new precincts wholly contained within the original precinct.

**History:** S.L. 1998, Ch. 276

**NOTE 34-307:** Caution: Any precinct changes must conform to boundaries of newly established legislative districts.

Precinct boundaries are basically locked while redistricting is taking place around the census year

**34-308. Mail Ballot Precinct.** (1) A precinct within the county that contains no more than one hundred forty (140) registered electors at the last general election may be designated by the board of county commissioners as a mail ballot precinct no later than April 1 in an even-numbered year. Such a designation shall apply thereafter to all elections conducted within the precinct until revoked by the board of county commissioners or until the precinct contains one hundred fifty-one (151) registered electors at the last general election. Having designated a mail ballot precinct, there shall be no voting place established within the precinct. Elections in a mail ballot precinct shall be conducted in a manner consistent with absentee voting with the special provisions provided in this section.

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

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

### IDAHO CODE: TITLE 34, CHAPTER 3

(4) The clerk shall make necessary provisions to segregate mail ballot precinct ballots by precinct and, for all purposes of the election, the precinct integrity shall be maintained.

(5) The clerk shall make registration available in the office of the clerk on election day for any individual who is eligible to vote and who resides in a mail ballot precinct and has not previously registered. The clerk shall provide an official polling place in the office of the clerk, and a qualified elector who registers on election day and resides in a mail ballot precinct shall be allowed to vote at the office of the clerk.

(6) (a) Except as provided in paragraph (b) of this subsection, electors who have designated a political party affiliation pursuant to section 34-404, *Idaho Code*, shall receive the primary election ballot for that party pursuant to sections 34-904 and 34-904A, *Idaho Code*.

(b) Electors who have 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*.

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

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

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

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

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

**History** S.L. 2004, Ch. 165; S.L. 2011, Ch. 319; S.L. 2019, Ch. 97

**NOTE 34-308:** Allows for an all mail precinct if the precinct has registered voters totalling no more than 140 voters at the last general election be designated by the County Commissioners as a mail ballot precinct. If the number of registered voters reaches 150 in any general election, voters in the precinct will be required to personal appear at a polling place to vote. Mail ballot precincts must be designated as such no later than April 1st in even numbered years.

Elections in this precinct will be conducted in a manner consistent with absentee voting. Election Day registration and voting will take place at the courthouse or absentee polling place

#### **Primary elections:**

Under the default closed primary election, electors who are registered with a party will be mailed that party's primary election ballot. Since unaffiliated voters can affiliate with a party on election day, they are to be mailed a letter asking if they want to affiliate with a party and receive that party's ballot. If the voter does not select a party, the voter will be mailed the non-partisan ballot only.

In the event one or more parties open their primary election to voters not registered with the party, a letter is to be sent to registered electors to whom participation has been extended by the party, asking which ballot they wish to receive. If no ballot selection is made or a ballot is requested for a party that has not opened their primary to those not registered with the party, the voter will be mailed the non-partisan ballot only.

## Chapter 4: Voters — Privileges — Qualifications And Registration

**34-401. Electors privileged from arrest during attendance at polling place — Exception.** Electors are privileged from arrest, except for treason, a felony or breach of the peace, during their attendance at a polling place.

**History:** S.L. 1970, Ch. 140

**34-402. Qualifications of electors.** Every male or female citizen of the United States, eighteen (18) years old, who has resided in this state and in the county for thirty (30) days where he or she offers to vote prior to the day of election, if registered within the time period provided by law, is a qualified elector.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 192; S.L. 1972, Ch. 392; S.L. 1973, Ch. 304; S.L. 1982, Ch. 253

**NOTE 34-402:** This section specifies that, in addition to the age and residency requirements to become a registered voter, the individual must be registered to meet the definition of a qualified elector.

**34-403. Disqualified electors not permitted to vote.** No elector shall be permitted to vote if he is disqualified as provided in article 6, sections 2 and 3 of the state constitution.

**History:** S.L. 1970, Ch. 140

**NOTE 34-403:** Article 6, Sections 2 & 3 of the State Constitution outline disqualifications. Section 3 refers to an individual who has been convicted of a felony. Sec. 18-310, I.C., restores a person's voting privileges once all the terms of the felony conviction sentence have been completed, including times served in prison, probation or parole. See Title 18, pg. F-1.

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

(2) Each elector may select on the registration application an affiliation with a political party qualified to participate in elections pursuant to section 34-501, *Idaho Code*, or may select to be designated as “**unaffiliated**.” The county clerk shall record the party affiliation or “**unaffiliated**” designation so selected as part of the elector's registration record. If an elector shall fail or refuse to make such a selection, the county clerk shall enter on the registration records that such elector is “**unaffiliated**.”

(3) In order to provide an elector with the appropriate primary election ballot, pursuant to section 34-904A, *Idaho Code*, the poll book for primary elections shall include the party affiliation or designation as “**unaffiliated**” for each elector so registered. An “**unaffiliated**” elector shall declare to the poll worker which primary election ballot the elector chooses to vote in, pursuant to section 34-904A, *Idaho Code*, and the poll worker or other authorized election personnel shall record such declaration in the poll book. The poll book shall contain checkoff boxes to allow the poll worker or other authorized election personnel to record such “**unaffiliated**” elector's selection.

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

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

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 192; S.L. 1972, Ch. 197; S.L. 1987, Ch. 256; S.L. 1997, Ch. 356; S.L. 2011, Ch. 319; S.L. 2016, Ch. 359

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**NOTE 34-404:** Registration is required for all elections except irrigation district elections, non-resident landowners recreation districts (use oath) and water districts governed by Title 42, Chapter 6, I.C.

Clarifies that voter registration is effective when the voter registration application is received by the County Clerk or at the polls.

Requires a voter to select a party affiliation or unaffiliated on the registration application. If a voter refuses to make a party affiliation selection, they are to be registered as unaffiliated. Requires the poll worker to record the ballot type received by a voter in the poll book during a Primary Election, which is then to be recorded in the voter registration system as part of the voter's history record. Also, allowed a voter to select a party affiliation in the 2012 primary election poll book.

All voters who did not vote in the 2012 primary election or, did not complete a registration application or affiliation form was to be designated as unaffiliated in the voter registration system after the 2012 Primary election by the County Clerk.

**34-405. Gain or loss of residence by reason of absence from state.** For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his absence while employed in the service of this state or the United States, while a student of any institution of learning, while kept at any state institution at public expense, nor absent from the state with the intent to have this state remain his residence. If a person is absent from this state but intends to maintain his residence for voting purposes here, he shall not register to vote in any other state during his absence.

**History:** S.L. 1970, Ch. 140

**NOTE 34-405:** If it is the intent of the elector when absent to return to the state, they shall not register in another jurisdiction. Section 34-107 "residence defined" should be used in determining the elector's intent.

**34-406. Appointment of Registrars.** (1) The county clerk shall provide for voter registration in the clerk's office and may appoint registrars to assist in voter registration throughout the county.

(2) The county clerk shall provide all political parties within the county with a supply of the registration form prescribed in section 34-411, *Idaho Code*.

**History:** S.L. 1994, Ch. 67; S.L. 2011, Ch. 319

**NOTE 34-406:** It is no longer mandatory to appoint precinct registrars. Registrars have been replaced, for the most part, by allowing for mail-in and on-line registration. The County Clerk shall provide all political parties with a supply of mail registration applications.

**34-407. Procedure for registration.** (1) Any county clerk or official registrar shall register without charge any elector who personally appears in the office of the county clerk or before the official registrar, as the case may be, and requests to be registered.

(2) Upon receipt of a written application to the county clerk from any elector who, by reason of illness or physical incapacity is prevented from personally appearing in the office of the county clerk or before an official registrar, the county clerk or an official registrar so directed by the county clerk shall register such elector at the place of abode of the elector.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 192; S.L. 1991, Ch. 337; S.L. 1995, Ch. 215

**NOTE 34-407:** Upon written application from an individual who is physically unable to appear before the County Clerk or registrar, the County Clerk or registrar shall register such person at his home. This situation is more easily handled by simply mailing the registration application to the elector or for the elector to register on-line.

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**34-408. Closing of Register — Time Limit.** (1) No elector may register in the office of the county clerk within twenty-four (24) days preceding any election held throughout the county in which he resides for the purpose of voting at such election; provided however, a legible, accurate and complete registration application received in the office of the county clerk during the twenty-four (24) day period preceding an election shall be accepted and held by the county clerk until the day following the election when registration reopens, at which time the registration shall become effective. This deadline shall also apply to any registrars the county clerk may have appointed.

(2) Any elector who will complete his residence requirement or attain the requisite voting age during the period when the register of electors is closed may register prior to the closing of the register.

(3) Notwithstanding subsection (1) of this section, an individual who is eligible to vote may also register, upon providing proof of residence, at the “**absent electors’ polling place**” provided in section 34-1006, *Idaho Code*.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 192; S.L. 1974, Ch. 172; S.L. 1981, Ch. 105; S.L. 1994, Ch. 67; S.L. 2001, Ch. 99; S.L. 2005, Ch. 127; S.L. 2016, Ch. 359

**NOTE 34-408:** The pre-election registration deadline is the 25th day before an election. For a Tuesday election this is the 4th Friday preceding the election. Registration applications received after the close of pre-registration shall be accepted and held until registration reopens. See 34-410, I.C., for registration applications received via mail. On-line registration will not be available to electors during this time frame.

Clarifies availability of election day registration at the absentee polling place.

**34-408A. Election day registration.** An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

- (1) Showing an Idaho driver’s license or Idaho identification card issued through the department of transportation; or
- (2) Showing any document which contains a valid address in the precinct together with a picture identification card; or
- (3) Showing a current valid student photo identification card from a postsecondary educational institution in Idaho accompanied with a current student fee statement that contains the student’s valid address in the precinct.

Election day registration provided in this section shall apply to all elections conducted under title 34, *Idaho Code*, and to school district and municipal elections.

An individual who is eligible to vote may also register, upon providing proof of residence, at the “**absent electors’ polling place**” provided in section 34-1006, *Idaho Code*.

**History:** S.L. 1994, Ch. 67; S.L. 1995, Ch. 215; S.L. 1997, Ch. 356; S.L. 2011, Ch. 285; S.L. 2016, Ch. 359

**NOTE 34-408A:** Provides for Election Day Registration for all elections in which registration is required. An individual must have proof of address accompanied with photo I.D. for purposes of registering.

A registered voter of the precinct cannot vouch for another individual’s residency on election day. Provides for Election Day Registration at “absent electors” polling place.

### 34-409. [Repealed - S.L. 2001, Ch. 99]

**34-409. Electronic registration.** (1) The office of the secretary of state may create and maintain an electronic system for voter registration that is publicly available on its official website. Any qualified elector who has a current valid driver’s license or identification card issued pursuant to title 49, *Idaho Code*, that reflects the person’s current principle place of residence, may register to vote by submitting a completed voter registration application electronically through such website. Electronic voter registration applications shall be submitted before the close of registration as provided in section 34-408, *Idaho Code*.

- (2) The electronic voter registration application shall be in a form prescribed by the secretary of state and shall:
  - (a) Require the information under oath or affirmation set forth in section 34-411, *Idaho Code*;
  - (b) Include notice of the requirement to provide personal identification before voting at the polls as set forth in sections 34-1113 and 34-1114, *Idaho Code*; and
  - (c) Require an electronic signature of the applicant.

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(3) The office of the secretary of state shall obtain a digital copy of the applicant's driver's license or identification card signature from the Idaho transportation department. The Idaho transportation department shall, upon request of the office of the secretary of state, provide a digital copy of the applicant's driver's license or identification card signature.

(4) Upon receipt of a completed voter registration application and a digital copy of the applicant's driver's license or identification card signature from the Idaho transportation department, the office of the secretary of state shall send the information to the county clerk for the county in which the applicant resides. The county clerk shall prepare and issue to each elector registering electronically a verification of registration containing the name and residence of the elector and the name and number of the precinct in which the elector resides. Such verification of registration may be sent by nonforwardable first-class mail or by electronic mail at the elector's option. If a verification is returned undeliverable, then the county clerk shall remove the elector from the register of electors.

(5) An applicant using the electronic system for voter registration pursuant to this section shall not be required to complete a printed registration card.

(6) The office of the secretary of state shall use such security measures necessary to ensure the accuracy and integrity of an electronically submitted voter registration application.

**History:** S.L. 2016, Ch. 359

**NOTE 34-409:** Qualified electors with current valid driver's license or identification card with their current address may register to vote using an online registration system.

The office of the secretary of state will obtain a copy of the elector's signature from the driver's license file housed in the department of transportation data base.

Although the clerk has the ability to print a copy of the registration card for the county file, it is not a requirement sine the statewide data base is the official register of electors.

**34-410. Mail registration.** Any elector may register by mail for any election. Any mail registration application must be received by the county clerk prior to the close of registration as provided in section ~~34-408~~, *Idaho Code*, provided that any mail registration application postmarked not later than twenty-five (25) days prior to an election shall be deemed timely.

The secretary of state shall prescribe the form for the mail registration application. This mail application form shall be available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

Any federal mail registration form adopted pursuant to the provisions of the national voter registration act of 1993 (P.L. ~~103-31~~) shall also be accepted as a valid registration, if such form is postmarked not later than twenty-five (25) days prior to an election.

The county clerk shall prepare and issue by first class nonforwardable mail to each elector registering by mail a verification of registration containing the name and residence of the elector and the name or number of the precinct in which the elector resides.

A verification returned undeliverable shall cause the county clerk to remove the elector's card from the register of electors.

As required by the Help America Vote Act of 2002 (P.L. ~~107-252~~), a copy of proper identification will be required prior to issuance of a ballot to anyone who has registered by mail and has not previously voted in an election for federal office in the state. Proper identification consists of:

(1) A current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

**History:** S.L. 1994, Ch. 67; S.L. 1995, Ch. 215; S.L. 2003, Ch. 48

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**NOTE 34-410:** All mail registrations must be postmarked 25 days prior to the election. Receipt of Federal Voter Registration Application (FPCA) causes the applicant to be registered. The County Clerk must verify receipt of all mail registrations. A verification returned undeliverable will cause the clerk to remove the elector's card from the register of electors. This returned undeliverable verification and mail registration must be kept by the County Clerk for a period of 2 years from the date of mailing.

Identification is required prior to issuing a ballot at either the absentee polling place or at the polls for first time Idaho voters registering by mail. However, by matching the Drivers License number on the voter registration card with the Department of Motor Vehicles - Drivers License Unit or the last four digits of the Social Security Number on the voter registration card with the Social Security Administration, the identification requirement will be satisfied and identification is not required at the polls.

**34-410A. Absentee registration for uniformed and overseas citizens.** Whenever provision is made for absentee voting by a statute of the United States, including the “**Uniformed and Overseas Citizens Absentee Voting Act**” (42 U.S.C. 1973 ff.), an application for an absentee ballot made under that law may be given the same effect as an application for an absentee ballot made under chapter 10, title 34, *Idaho Code*.

**History:** S.L. 1976, Ch. 353; S.L. 1994, Ch. 122; S.L. 1995, Ch. 215

**NOTE 34-410A:** Receipt of a properly executed Federal Post Card Application (FPCA) will cause the applicant to be registered. FPCA's are a request for an absentee ballot for each election the individual is eligible to vote in to be sent to the applicant for a period covering two federal general elections.

**34-411. Application for registration — Contents.** (1) Each elector who requests registration shall supply the following information under oath or affirmation:

- (a) Full name and sex.
- (b) Mailing address, residence address or any other necessary information definitely locating the elector's residence.
- (c) The period of time preceding the date of registration during which the elector has resided in the state.
- (d) Whether or not the elector is a citizen.
- (e) That the elector is under no legal disqualifications to vote.
- (f) The county and state where the elector was previously registered, if any.
- (g) Date of birth.
- (h) Current driver's license number or identification card issued by the Idaho transportation department. In the absence of an Idaho driver's license or state issued identification card, the last four (4) digits of the elector's social security number.

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

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

(4) Each elector who requests registration may, at the elector's option, supply the elector's telephone number. If the telephone number is supplied by the elector, the telephone number shall be available to the public.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 192; S.L. 1972, Ch. 392; S.L. 1988, Ch. 233; S.L. 1995, Ch. 215; S.L. 2003, Ch. 48; S.L. 2011, Ch. 319; S.L. 2012, Ch 211

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**NOTE 34-411:** Phone number is optional and an elector cannot be denied registration for not entering such information. All other information is statutorily required.

An elector must give their Idaho Driver's License Number or state issued ID Number. When their Idaho Drivers License or ID Number is not available, the elector shall then enter the last four (4) digits of their Social Security Number.

Each elector must select a party affiliation or designation as an unaffiliated elector. If an elector fails or refuses to make a selection, the county clerk will designate them as unaffiliated in the voter registration system.

**34-411A. Primary elections — changing party affiliation — unaffiliated electors.** (1) For a primary election, an elector may change such elector's political party affiliation or become "**unaffiliated**" by filing a signed form with the county clerk no later than the last day a candidate may file for partisan political office prior to such primary election, as provided for in section 34-704, *Idaho Code*. An "**unaffiliated**" elector may affiliate with the party of the elector's choice by filing a signed form up to and including election day. The application form described in section 34-1002, *Idaho Code*, shall also be used for this purpose.

(2) For a primary election, an "**unaffiliated**" elector may select a political party affiliation only prior to voting in the primary election. An elector may make such selection on or before election day, by declaring such political party affiliation to the poll worker or other appropriate election personnel. The poll worker or other appropriate election personnel shall then record in the poll book the elector's choice. After the primary election, the county clerk shall record the party affiliation so recorded in the poll book as part of such elector's record within the voter registration system as provided for in section 34-437A, *Idaho Code*.

**History:** S.L. 2011, Ch. 319; S.L. 2012, Ch. 211

**NOTE 34-411A:** Any elector may change his or her affiliation until the last day of candidate filing for partisan office prior to the Primary Election in an even numbered year. Between the close of filing and the Primary Election, only electors who are designated as unaffiliated may change their party affiliation and electors who are not registered may select a party affiliation.

An unaffiliated elector may select a party on election day simply by telling the poll book clerk at the polls. The poll worker will then mark the affiliation in the poll book and the County Clerk will change the elector's registration to reflect the elector's choice.

**34-412. Qualifications for registration.** (1) The qualifications of any person who requests to be registered shall be determined in the first instance by the registering official from the evidence before him. If the registering official determines that such person is not qualified, he shall refuse to register the person.

(2) A person refused registration under subsection (1) of this section may make application to the county clerk for a hearing on his qualifications. Not more than ten (10) days after the date he receives such application, the county clerk shall hold a hearing on the qualifications of the applicant and shall notify the applicant of the place and time of such hearing. At such hearing the applicant may present evidence as to his qualifications, provided that no hearing shall be held subsequent to any election which is held within said ten (10) day period. If the county clerk determines that the applicant is qualified, the county clerk shall register the applicant immediately upon the conclusion of the hearing.

**History:** S.L. 1970, Ch. 140; S.L. 1982, Ch. 216; S.L. 1995, Ch. 215

**NOTE 34-412:** An applicant is not required to provide proof of residency in pre-election day registration (i.e. prior to the registration deadline). If the registering official determines there is a reason to deny registration, then the elector is entitled to a hearing.

Under federal law, a first time voter in Idaho registering by mail may not vote in a federal election until identification has been verified. However, according to 34-410, by matching the Drivers License number on the voter registration application with the Department of Motor Vehicles - Drivers License Unit or the last four digits of the Social Security Number on the voter registration card with the Social Security Administration, the identification requirement will be satisfied and identification for registration is not required at the polls. However, ID Required before voting is still applicable under 34-1113, *Idaho Code*.

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**34-413. Reregistration of elector who changes residence.** An elector who moves to another county within the state or to another state within thirty (30) days prior to any election shall be permitted to vote in the ensuing election by absentee ballot or at the polling place assigned to the elector's prior address.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 392; S.L. 1977, Ch. 15; S.L. 1982, Ch. 137; S.L. 1983, Ch. 213; S.L. 1995, Ch. 215; S.L. 2019, Ch. 96

**NOTE 34-413:** Allows elector moving during the time registration is closed to vote by absentee ballot or in person at the electors prior polling place.

**34-414. [Repealed - S.L. 1995, Ch. 215]**

**34-415. [Repealed - S.L. 1995, Ch. 215]**

**34-416. Registration applications.** (1) The registration application shall contain the following warning:

WARNING: Any elector who supplies any information, knowing it to be false, is guilty of perjury.

(2) The elector shall read the warning set forth in subsection (1) of this section and shall sign his name in an appropriate place on the completed application.

(3) The registration application completed and signed as provided in this section constitutes the official registration application of the elector. The county clerk shall keep and file all such applications in a convenient manner in his office. Such applications shall be considered confidential and unavailable for public inspection and copying except as provided by subsection (25) of section 74-106, *Idaho Code*.

(4) The statewide voter registration database maintained by the secretary of state's office shall constitute the register of electors.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 392; S.L. 2001, Ch. 99; S.L. 2003, Ch. 48; S.L. 2004, Ch. 163; S.L. 2015, Ch. 141; S.L. 2016, Ch. 359

**NOTE 34-416:** The elector signs the attestation that information supplied on their registration application is true. Any elector who supplies any information on a registration application, knowing it to be false, is guilty of perjury. Perjury is punishable by imprisonment in the state prison for not less than 1 year or more than 14 years. In addition, the court may impose a fine of up to \$50,000. This warning and penalty is printed or displayed on the registration application.

Completed registration applications shall be considered confidential and unavailable for public inspection and copying except that a copy of the application is to be made available upon request with the date of birth, driver's license number and social security number blacked out. For protected persons, the residence address is also blacked out (Section 9-340C (25), *Idaho Code*, see page E-1).

**34-417. [Repealed - S.L. 2019, Ch. 96]**

**34-418. Weekly review of new registration cards — Report to interested officials.** Each week the county clerk shall review the registration cards of all newly registered electors for the past weekly period to determine whether they have been previously registered to vote in another state or in another county within this state. The county clerk or secretary of state, through the statewide voter registration system, shall notify the proper registration official or county clerk where the elector was previously registered so that the prior registration may be canceled. The form of such notice shall be prescribed by the secretary of state.

**History:** S.L. 1970, Ch. 140; S.L. 2006, Ch. 70

**NOTE 34-418:** The County Clerk or Secretary of State is required to send a cancellation notice to the proper registration official where an elector was previously registered. This should be done on a weekly basis. The statewide voter registration system can automatically notify the clerks' offices in the state.

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**34-419. Suspension of registration of electors who appear not to be citizens of the United States.** The county clerk shall remove from the register of electors the official registration application of any elector who appears by the registration records in the office of the county clerk not to be a citizen of the United States and shall suspend the registration of such elector. The county clerk shall mail a written notice of such removal and suspension to the elector at his residence address indicated on the application. If the elector proves to the county clerk that he is in fact a citizen of the United States, his application shall be replaced in the register and his registration reinstated.

**History:** S.L. 1970, Ch. 140; S.L. 2016, Ch. 359

**34-420. No elector's registration shall be canceled while he is serving in the armed forces — Exception.** Except as provided in section 34-435, *Idaho Code*, or for registering to vote in another jurisdiction, no elector's registration shall be canceled, nor shall he be deprived of his right to vote at any election by reason of the removal of his official registration application from the register of electors, during any period that he is serving in the armed forces of the United States or of any ally of the United States.

**History:** S.L. 1970, Ch. 140; S.L. 1987, Ch. 20; S.L. 2016, Ch. 359; S.L. 2019, Ch. 96

**NOTE 34-420:** A military elector's registration can only be canceled when he established a residence for voting purposes in another jurisdiction or has not voted in an election at least once in a 4 year period.

**34-421. [Repealed - S.L. 1995, Ch. 215]**

**34-422. [Repealed - S.L. 1981, Ch. 255]**

**34-423. [Repealed - S.L. 1995, Ch. 215]**

**34-424 to 34-430. [Repealed - S.L. 1973, Ch. 123]**

**34-431. Challenges of entries in election register.** At the time of any election, any registered elector may challenge the entry of an elector's name as it appears in the election register. Such a challenge will be noted in the remarks column following the elector's name stating the reason, such as "**died**," "**moved**," or "**incorrect address**." The individual making the challenge shall sign his name following the entry.

**History:** S.L. 1970, Ch. 140

**NOTE 34-431:** Any challenges made to a person's registration in the election record poll book must be accompanied by the elector's signature making the challenge. Initials are not acceptable. An electronic signature in an electronic poll book is acceptable.

**34-432. Correction of election register from challenges at election.** (1) No later than the ninth Friday after each election, the county clerk shall examine the election register and note the challenges as described in section 34-431, *Idaho Code*. The county clerk shall mail a written inquiry to the challenged elector at his mailing address as indicated on his registration card. Such inquiry shall state the nature of the challenge and provide a suitable form for reply.

(2) Within twenty (20) days from the date of mailing of the written inquiry, the elector may, in person or in writing, state that the information on his registration card is correct. Upon receipt of such a statement or request, the county clerk shall determine whether the information satisfies the challenge. If the county clerk determines that the challenge has not been satisfied, the county clerk shall schedule a hearing on the challenge and shall notify the elector of the place and time of the hearing. The hearing shall be held no later than twenty (20) days after notice is given. At the hearing, the challenged elector may present evidence of qualification. If the county clerk, upon the conclusion of the hearing, determines that the challenged elector's registration is not valid, the county clerk shall cancel the registration. If a challenged elector fails to make the statement or request in response to the inquiry, the county clerk shall cancel the registration.

(3) The county clerk may make inquiry into the validity of any registration at any time. The inquiry shall proceed as provided in this section.

**History:** S.L. 1970, Ch. 140; S.L. 1982, Ch. 137; S.L. 1989, Ch. 146; S.L. 2006, Ch. 70; S.L. 2019, Ch. 96

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**NOTE 34-432:** Written inquiry to the challenged elector should be sent to the address on the elector's registration card. If the inquiry is unanswered within 20 days of mailing the inquiry or returned undeliverable, the County Clerk will cancel the elector's registration.

In addition to making inquiry from the challenges noted in the election record poll book, the County Clerk may make an inquiry into the validity of any registration at any time. This is not to be used as a general purge if the deadline to cancel registration (pursuant to Sec. 34-435) was missed.

**34-433. Monthly correction of election register from reported deaths.** The state board of health shall, on or about the 25th day of each month, furnish to the secretary of state a listing showing the name, age, county of residence and residence address of each Idaho resident who has died during the preceding month. The secretary of state shall sort this list by county and furnish a copy of same to each county clerk. Each county clerk shall immediately cancel all registrations of individuals reported as deceased by the state board of health in the board's report to the secretary of state.

**History:** S.L. 1970, Ch. 140

**NOTE 34-433:** The County Clerk cancels registrations of those individuals whose names appear on the report of deceased individuals supplied by the state board of health (i.e. vital statistics). The list of deceased persons contains only those who have died within the state. If a person dies at a hospital outside of Idaho, the person's name will not appear on the list. This should be done immediately upon receipt of such report from the Secretary of State. The County Clerk must maintain the lists of deceased for a period of two years.

**34-434. Retention of notices and correspondence relating to correction of election registers.** Copies of all notices and other correspondence issued pursuant to the directives contained in sections 67 and 68 of this act [34-432, 34-433, *Idaho Code*,] shall be retained by the county clerk for a period of two (2) years from date of mailing.

**History:** S.L. 1970, Ch. 140

**NOTE 34-434:** Any correspondence relating to the challenging or removal of a registration must be maintained for 2 years from the date of mailing.

**34-435. Cancellation of registrations following any general election of those not voting for four years.** Within one hundred twenty (120) days following the date of the general election, the county clerk shall examine the election register and the signed statements of challenge made at that election. After this examination, the county clerk shall immediately cancel the registration of any elector who did not vote at any election in the past four (4) years. This section shall be construed as to provide for a uniform four (4) year registration period for all electors.

**History:** S.L. 1970, Ch. 140; S.L. 1975, Ch. 124; S.L. 1977, Ch. 15; S.L. 1978, Ch. 27; S.L. 1995, Ch. 215; S.L. 2015, Ch 282

**NOTE 34-435:** After the general election, the County Clerk has 120 days (not any longer) to cancel any elector's registration who has not voted in any election in a 4 year period. A notice is to be sent to such canceled elector. Election record poll books must be retained for at least 4 years.

See Secretary of State Directives, page J-13 for the Directive on purging voters.

**34-436. Retention of correspondence relating to cancellation of voter's registration.** All correspondence relating to the cancellation of an elector's registration shall be preserved by the county clerk for a period of two (2) years following the time of any general election.

**History:** S.L. 1970, Ch. 140

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**34-437. Furnishing lists of registered electors — Restrictions.** (1) Each of the county clerks, upon receiving a request shall supply to any individual, a current list of the registered electors of the county and their addresses, arranged in groups according to election precincts. The county clerks shall prepare an original of the above list from the state vote registration system at county expense. Any person desiring a copy of the original list shall be furnished the same, and the county clerk shall assess the individual an amount which will compensate the county for the cost of reproducing such copy.

(2) No person to whom a list of registered electors is made available or supplied under subsection (1) of this section and no person who acquires a list of registered electors prepared from such list shall use any information contained therein for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however, that any such list and label may be used for any political purpose.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 392; S.L. 1973, Ch. 304; S.L. 1976, Ch. 344; S.L. 1982, Ch. 137; S.L. 2003, Ch. 48

**NOTE 34-437:** Upon receipt of a request for a voter registration list, the County Clerk will furnish the list, arranged by precinct, and include the voters address. You may eliminate requests to view your poll books, which are public record, if you include additional information such as voting history in the list.

It is recommended that you require any entity purchasing a listing of registered voters to sign a statement acknowledging the prohibition from using the information contained on the list for commercial purposes. Lists may be used for political purposes.

The cost to the entity purchasing the list should only be the cost of reproduction of the original list.

**34-437A. Statewide lists of registered electors.** (1) The secretary of state, in conjunction with county clerks, shall develop and implement a single, uniform official, centralized, interactive, computerized statewide voter registration system as required by the Help America Vote Act of 2002 (P.L. 107-252).

(2) The statewide system shall contain the name and registration information of every legally registered voter in the state and assign a unique identifier to each legally registered voter in the state, and include the following:

(a) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state.

(b) The computerized list shall contain the name and registration information of every legally registered voter in the state.

(c) Under the computerized list, a unique identifier shall be assigned to each legally registered voter in the state.

(d) The computerized list shall be coordinated with other agency databases within the state.

(e) Any election official in the state, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.

(f) All voter registration information obtained by any local election official in the state shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

(g) The secretary of state shall provide such support as may be required so that local election officials are able to enter information as described in subsection (2) (f) of this section.

(h) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in the state.

(3) Any person desiring a copy of the statewide list of registered electors shall be furnished the same, and the secretary of state shall assess the individual an amount which will compensate the state for the cost of reproducing such copy. No person to whom a list of statewide electors is furnished and no person who acquires a list of statewide electors prepared from such list shall use any information contained therein for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however that any such list and label may be used for any political purpose.

**History:** S.L. 1976, Ch. 344; S.L. 2003, Ch. 48

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**NOTE 34-437A:** Counties are responsible for entering information from registration cards into the statewide voter registration system at the time they receive the cards. The state is responsible for providing access to and maintenance of the statewide system.

Counties as well as the state shall provide voter registration lists. The State will provide statewide lists and congressional and legislative district lists and the County Clerks will provide a list for their respective county.

Section 34-437 footnotes apply.

**34-437B. Furnishing lists of registered electors to school districts.** Each of the county clerks, upon receiving a request therefor, not later than the thirtieth day prior to a school election, shall, not later than the seventh day prior to the election, supply to a requesting school board a list of registered electors, that are within the school district within which a school district election is to be held. The county clerk may assess the school board an amount which will compensate the county for the cost of preparing such a list.

**History:** S.L. 1987, Ch. 256; S.L. 1988, Ch. 71; S. L. 2006, Ch. 70

**NOTE 34-437B:** The school districts may be required to reimburse the County Clerk for the cost of preparing such list for a school election. The reimbursement issue is a matter left to the discretion of the County Clerk.

**34-438. [Repealed - S.L. 2003, Ch. 48]**

**34-439. [Repealed - S.L. 2012, Ch. 200]**

**34-439. Disclosures in elections to authorize bonded indebtedness.** (1) Notwithstanding any other provision of law, any taxing district that proposes to submit any question to the electors of the district that would authorize any bonded indebtedness shall provide a brief official statement setting forth in simple, understandable language information on the proposal substantially as follows:

- (a) The purpose for which the bonds are to be used including, but not necessarily limited to, a description of the facility and/or project that will be financed, in whole or in part, by the sale of the bonds; the date of the election; and the principal amount of the bonds to be issued;
- (b) The anticipated interest rate on the proposed bonds based upon current market rates and a maximum interest rate if a maximum is specified in the question to be submitted to electors;
- (c) The total amount to be repaid over the life of the bonds based on the anticipated interest. Such total shall reflect three (3) components: a total of the principal to be repaid; a total of the interest to be paid; and the sum of both;
- (d) The estimated average annual cost to the taxpayer of the proposed bond, in the format of "A tax of \$ per \$100,000 of taxable assessed value, per year, based on current conditions";
- (e) The length of time, reflected in months or years, in which the proposed bonds will be paid off or retired; and
- (f) The total existing indebtedness, including interest accrued, of the taxing district.

(2) (a) The formula for calculating the estimated average annual cost to the taxpayer shall be as follows:

$$((\text{Bond Total}/\text{Taxable Value}) \times 100,000)/\text{Duration} = \text{estimated average annual cost to taxpayer}; \text{ and}$$

(b) The elements of which are defined as:

- (i) "Bond total" means the total amount to be bonded, from subsection (1)(c) of this section as based on the anticipated interest rate in subsection (1)(b) of this section;
- (ii) "Duration" means the time, in years, from subsection (1)(e) of this section; and
- (iii) "Taxable value" means the most recent total taxable value for property for the applicable taxing district, which shall be obtained from the applicable county treasurer or assessor's office.

(3) The official statement shall be made a part of the ballot prior to the location on the ballot where a person casts a vote and shall be included in the official notice of the election.

**History:** S.L. 2012, Ch. 200; S.L. 2015, Ch 286; S.L. 2018, Ch 261

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**NOTE 34-439:** This disclosure is mandatory for every bond issue of any taxing district. Although the actual wording of a bond is not spelled out in the statutes, a sample ballot or ballot template is on the Clerks' page of the Elections web site that contains all the required information.

The template was developed in conjunction with various bond attorneys and financial institutions in the state. If wording is submitted by a political subdivision that does not substantially match the template, the County Clerk should inform the subdivision of the necessary changes before printing the question on the ballot. The additional disclosure information required by this statute does not count as part of the 200 word limit on ballot questions.

**34-439A. Disclosures in elections to authorize levy.** (1) Notwithstanding any other provision of law except for the provisions of section 63-802(1)(g), *Idaho Code*, any taxing district that proposes to submit any question to the electors of the district that would authorize any levy, except for the levies authorized for the purposes provided in sections 63-802(1)(g) and 33-802(4), *Idaho Code*, and except for levies relating to bonded indebtedness where section 34-439, *Idaho Code*, applies, shall include in the ballot question, or in a brief official statement on the ballot but separate from the ballot question, a disclosure setting forth in simple, understandable language information on the proposal substantially as follows:

- (a) The purpose for which the levy shall be used; the date of the election; and the dollar amount estimated to be collected each year from the levy;
- (b) The estimated average annual cost to the taxpayer of the proposed levy, in the form of "A tax of \$ per one hundred thousand dollars (\$100,000) of taxable assessed value, per year, based on current conditions." The dollar amount shall be calculated by multiplying the expected levy rate by one hundred thousand dollars (\$100,000); and
- (c) The length of time, reflected in months or years, in which the proposed levy will be assessed.

(2) The information called for in subsection (1) of this section shall be placed prior to the location on the ballot where a person casts a vote and shall also be included in like manner in the official notice of the election.

**History:** S.L. 2012, Ch. 212; S.L. 2015, Ch. 282 and 286; S.L. 2016, Ch. 47; S.L. 2019, Ch. 86

**NOTE 34-439A:** This disclosure is mandatory for every levy issue of any taxing district. Although the actual wording of a bond is not spelled out in the statutes, a sample ballot or ballot template is on the Clerks' page of the Elections web site that contains all the required information.

The template was developed in conjunction with various bond attorneys and financial institutions in the state. If wording is submitted by a political subdivision that does not substantially match the template, the County Clerk should inform the subdivision of the necessary changes before printing the question on the ballot. The additional disclosure information required by this statute does not count as part of the 200 word limit on ballot questions.

## Chapter 5: Political Parties — Organization

**34-501. “Political party” defined — Procedures for creation of a political party.** (1) A “political party” within the meaning of this act, is an organization of electors under a given name. A political party shall be deemed created and qualified to participate in elections in any of the following three (3) ways:

- (a) By having three (3) or more candidates for state or national office listed under the party name at the last general election, provided that those individuals seeking the office of president, vice president and president elector shall be considered one candidate, or
- (b) By polling at the last general election for any one of its candidates for state or national office at least three per cent (3%) of the aggregate vote cast for governor or for presidential electors.
- (c) By an affiliation of electors who shall have signed a petition which shall:
  - (A) State the name of the proposed party in not more than six (6) words;
  - (B) State that the subscribers thereto desire to place the proposed party on the ballot;
  - (C) Have attached thereto a sheet or sheets containing the signatures of at least a number of qualified electors equal to two per cent (2%) of the aggregate vote cast for presidential electors in the state at the previous general election at which presidential electors were chosen;
  - (D) Be filed with the secretary of state on or before August 30 of even numbered years;
  - (E) The format of the signature petition sheets shall be prescribed by the secretary of state and shall be patterned after, but not limited to, such sheets as used for state initiative and referendum measures;
  - (F) The petitions and signatures so submitted shall be verified in the manner prescribed in section 34-1807, *Idaho Code*.
  - (G) The petition shall be circulated no earlier than August 30 of the year preceding the general election.

(2) Upon certification by the secretary of state that the petition has met the requirements of this act such party shall, under the party name chosen, have all the rights of a political party whose ticket shall have been on the ballot at the preceding general election.

The newly certified party shall proceed to hold a state convention in the manner provided by law; provided, that at the initial convention of any such political party, all members of the party shall be entitled to attend the convention and participate in the election of officers and the nominations of candidates. Thereafter the conduct of any subsequent convention shall be as provided by law.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 130; S.L. 1976, Ch. 344; S.L. 1978, Ch. 256; S.L. 1985, Ch. 42; S.L. 1987, Ch. 262

**NOTE 34-501:** Party retains ballot status 1 of 2 ways: (a) or (b).

A new political party can be formed by submitting petitions containing signatures of registered voters numbering at least 2% of the number people voting for president in the last general election at which presidential electors were chosen. Political party formation petitions are to be verified by the County Clerk prior to being filed with the Secretary of State by August 30 of even numbered years.

A newly established Party holds convention in accordance with 34-707. It is to be held at the time and place determined by the state central committee.

**34-502. County central committee — Members — Officers — Duties of chairman — Notice to chairman.** The county central committee of each political party in each county shall consist of the precinct committeemen representing the precincts within the county and the county chairman elected by the precinct committeemen. The precinct committeemen within each county shall meet at the county seat within ten (10) days after the primary election and at the time and date designated by the incumbent county chairman, and shall organize by electing a chairman, vice chairman, a secretary, a state committeeman, a state committeewoman, and such other officers as they may desire who shall hold office at the pleasure of the county central committee or until their successors are elected.

Unless state party rules, adopted as provided in section 34-505, *Idaho Code*, provide otherwise, when a vacancy exists in the office of county central committee chairman, it shall be the duty of the state central committee chairman to call a meeting of the precinct committeemen of the county, and the precinct committeemen shall proceed to elect a chairman of the county central committee for the balance of the unexpired term.

The county central committee shall fill by appointment all vacancies that occur or exist in the office of precinct committeeman who shall be a qualified elector of the precinct.

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The county clerk shall deliver in writing to the chairman of the county central committee of each political party on or before January 20 of each year in which a general election is to be held, a list of the election precincts in the county and the names and addresses of the precinct committeemen who were elected at the last primary election, or who have since been appointed as precinct committeemen, as such election or appointment is shown on the records of the county clerk. If the county clerk has no record of precinct committeemen, he shall in writing, so inform the chairman of the county central committee.

The chairman of the county central committee shall on or before February 1 of each year in which a general election is to be held, and at such other times as changes occur, certify to the county clerk the names and addresses of the precinct committeemen of his political party.

**History:** S.L. 1970, Ch. 140; S.L. 1975, Ch. 21; S.L. 1976, Ch. 351; S.L. 2011, Ch. 285

**NOTE 34-502:** By January 20th of each year, the County Clerk certifies in writing a list of precincts and precinct committeemen elected at the last primary or have since been appointed as precinct committeeman to the chairman of the county central committee.

On or before February 1st in an even numbered year, the county central committee chairman shall certify to the County Clerk the names and addresses of the precinct committeemen including any changes that occurred since the last primary election.

The precinct committeemen elected at the primary election meet within 10 days after the primary to elect officers. The County Central Committee consists of precinct committeemen and officers elected by the precinct committeemen.

**34-503. Legislative district central committee — Membership — Officers.** The legislative district central committee of each political party in each legislative district shall consist of the precinct committeemen representing the precincts within the legislative district, and the legislative district chairman elected by the precinct committeemen. The precinct committeemen within each legislative district shall meet within the legislative district or at a convenient location in a legislative district contiguous to the legislative district, or at a convenient location in a county in which any portion of the legislative district sits, within eleven (11) days after the primary election, the meeting time and place to be designated by the incumbent legislative district chairman. At this meeting the precinct committeemen shall organize by electing a chairman, vice chairman, a secretary and such other officers as they may desire, who shall hold office at the pleasure of the legislative district central committee or until their successors are elected.

Unless state party rules, adopted as provided in section [34-506](#), *Idaho Code*, provide otherwise, when a vacancy exists in the office of legislative district central committee chairman, it shall be the duty of the state central committee chairman to call a meeting of the precinct committeemen of the legislative district, and the precinct committeemen shall proceed to elect a chairman of the legislative district central committee for the balance of the unexpired term.

**History:** S.L. 1970, Ch. 140; S.L. 1976, Ch. 351; S.L. 2006, Ch. 397

**NOTE 34-503:** Requires that the precinct committeemen within the legislative district meet within 11 days after the primary for the purpose of organizing the central committee.

**34-504. State central committee — Membership.** The state central committee of each political party shall consist of all legislative district chairmen, all county central committee chairmen, all state committeemen, and state committeewomen selected by the county central committees. Each of the above members of the state central committee shall be entitled to vote at all meetings of the state central committee.

**History:** S.L. 1970, Ch. 140

**NOTE 34-504:** The state central committee consists of the legislative district chairs, county chairs and state committeepersons elected by county central committees.

**34-504A. [Repealed - S.L. 1970, Ch. 140]**

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**34-505. Powers and duties of county central committee.** The county central committee shall have all the powers and duties prescribed by state law and rules and regulations promulgated and adopted by the state conventions or the state central committee.

**History:** S.L. 1970, Ch. 140

**34-506. Powers and duties of legislative district central committee.** The legislative district central committee shall have all the powers and duties prescribed by state law and rules and regulations promulgated and adopted by the state conventions or the state central committee.

**History:** S.L. 1970, Ch. 140

**34-507. Selection of delegates to the state convention.** The delegates to the state convention of each political party shall be selected in the manner prescribed by rules and regulations promulgated and adopted by the state central committee.

**History:** S.L. 1970, Ch. 140; S.L. 1971, 1st E.S., Ch. 9

**NOTE 34-507:** The number of delegates to the state convention are prescribed by the state central committee.



## Chapter 6: Time Of Elections Officers Elected

**34-601. Dates on which elections shall be held.** Elections shall be held in this state on the following dates or times:

(1) A primary election shall be held on the third Tuesday in May, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(2) A general election shall be held on the first Tuesday after the first Monday of November, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(3) Special state elections shall be held on the dates ordered by the governor's proclamation, or as otherwise provided by law.

(4) A presidential primary shall be held on the second Tuesday in March in each presidential election year.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 193; S.L. 1975, Ch. 174; S.L. 1979, Ch. 309; S.L. 2009, Ch. 341; S.L. 2012, Ch. 33; S.L. 2015, Ch. 292

**NOTE 34-601:** The primary election is to be held on the third Tuesday in May in even-numbered years.

The general election is to be held on the first Tuesday after the first Monday in November in even numbered years.

The presidential primary election is to be held on the second Tuesday in March in each presidential election years.

**34-602. Publication of notices for primary, general or special elections — Contents.** The several county clerks shall publish at least two (2) times, the notices for any primary, general or special election. The notice shall state the date of the election, the polling place in each precinct and the hours during which the polls shall be open for the purpose of voting, and information about the accessibility of the polling places.

The first notice shall be published at least twelve (12) days prior to any election and the second notice shall be published not later than five (5) days prior to the election. The notice of election shall be published in at least two (2) newspapers published within the county, but if this is not possible, the notice shall be published in one (1) newspaper published within the county or a newspaper which has general circulation within the county.

The second notice of election shall be accompanied by a facsimile, except as to size, of the sample ballot for the election.

**History:** S.L. 1970, Ch. 140; S.L. 2004, Ch. 112; S.L. 2009, Ch. 341

**NOTE 34-602:** Requires the Notice of Election be published two times. Facsimile sample ballot is to be published with second notice.

There is no prohibition from publishing the first notice prior to the 12th day before the election or the second notice prior to the 5th day before the election. The "before" and "not later than" language is there to accommodate weekly newspapers.

**34-603. Certification of a proposed constitution, constitutional amendment or other question to be submitted to the people for vote.** Whenever a proposed constitution, constitutional amendment or other question is to be submitted to the people of the state for popular vote, it shall be certified by the secretary of state to the county clerks not later than September 7 in the year in which it will be voted upon. It shall be published in the form prescribed by the secretary of state.

**History:** S.L. 1970, Ch. 140; S.L. 1973, Ch. 304; S.L. 1984, Ch. 131; S.L. 1985, Ch. 42

**NOTE 34-603:** Clerk prints constitutional amendments and measures exactly as they appear on the sample ballot prepared by the Secretary of State.

**34-604. Election of United States Senator — Qualifications.** (1) At the general election, 1972, and every six (6) years thereafter, there shall be elected one (1) United States senator. At the general election, 1974, and every six (6) years thereafter, there shall be elected one (1) United States senator.

(2) No person shall be elected to the office of United States senator unless he has attained the age of thirty (30) years at the time of his election, has been a citizen of the United States at least nine (9) years and shall reside within the state at the time of his election.

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(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of five hundred dollars (\$500) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28

**NOTE 34-604:** The qualifications to hold the office of U.S. Senator and Representative are spelled out in the United States Constitution.

Candidates running for federal office obtain filing documents from the Secretary of State and file with the Secretary of State. Federal candidates must also file with the Federal Election Commission in regard to campaign financing.

**34-605. Election of United States Congressional Representatives — Qualifications.** (1) At the general election, 1972, and every alternate year thereafter, there shall be elected in each United States congressional district a member of the United States house of representatives and any additional number of representatives to which the state may be entitled in the state at large.

(2) No person shall be elected to the house of representatives unless he has attained the age of twenty-five (25) years at the time of his election, has been a citizen of the United States at least seven (7) years and shall reside within the state at the time of his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of three hundred dollars (\$300) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1983, Ch. 213; S.L. 1996, Ch. 28

**34-606. Election of presidential electors.** (1) At the general election, 1972, and every four (4) years thereafter, there shall be elected such a number of electors of president and vice president of the United States as the state may be entitled to in the electoral college.

(2) No person shall be elected to this position unless he has attained the age of twenty-one (21) years at the time of the election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Such electors shall be certified to the secretary of state as provided for by law.

**History:** S.L. 1970, Ch. 140

**NOTE 34-606:** Presidential electors are certified to the Secretary of State by the political party chairman or by an independent presidential candidate.

A person serving as a presidential elector cannot be employed by the federal government. (Article II, Section 1 states that no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.)

**34-607. Election of Governor — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a governor shall be elected.

(2) No person shall be elected to the office of governor unless he shall have attained the age of thirty (30) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of three hundred dollars (\$300) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28

**NOTE 34-607:** Statewide candidates obtain filing documents from the Secretary of State and file with the Secretary of State.

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**34-608. Election of Lieutenant Governor — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, there shall be elected a lieutenant governor.

(2) No person shall be elected to the office of lieutenant governor unless he shall have attained the age of thirty (30) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28

**34-609. Election of Secretary of State — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a secretary of state shall be elected.

(2) No person shall be elected to the office of secretary of state unless he shall have attained the age of twenty-five (25) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general account.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28

**34-610. Election of State Controller — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a state controller shall be elected.

(2) No person shall be elected to the office of state controller unless he shall have attained the age of twenty-five (25) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1994, Ch. 181; S.L. 1996, Ch. 28

**34-611. Election of State Treasurer — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a state treasurer shall be elected.

(2) No person shall be elected to the office of state treasurer unless he shall have attained the age of twenty-five (25) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28

**34-612. Election of Attorney General — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, an attorney general shall be elected.

(2) No person shall be elected to the office of attorney general unless he shall have attained the age of thirty (30) years at the time of his election, is admitted to the practice of law within the state, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28

### **34-612A - 34-612D. [Repealed - S.L. 1970, Ch. 140]**

**34-613. Election of Superintendent of Public Instruction — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a superintendent of public instruction shall be elected.

(2) No person shall be elected to the office of superintendent of public instruction unless he shall have attained the age of twenty-five (25) years at the time of his election; is a citizen of the United States; has a bachelor's degree from an accredited college or university, and shall have resided within the state two (2) years next preceding his election.

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(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1974, Ch. 182; S.L. 1994, Ch. 277; S.L. 1996, Ch. 28

**34-614. Election of State Representatives and Senators — Qualifications.** (1) At the general election, 1972, and every alternate year thereafter, there shall be elected in each legislative district such representatives and senators as they may be severally entitled.

(2) No person shall be elected to the office of representative or senator unless he shall have attained the age of twenty-one (21) years at the time of the general election, is a citizen of the United States and shall have been a registered elector within the legislative district one (1) year next preceding the general election at which he offers his candidacy.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of thirty dollars (\$30.00) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1981, 1st E.S., Ch. 2; S.L. 1996, Ch. 28; S.L. 2019, Ch. 227

**NOTE 34-614:** State Representatives and Senators obtain filing documents from the Secretary of State and file with the Secretary of State.

Article 3, Section 6, State Constitution requires individuals to be an elector (i.e., registered voter) for one year before the general election.

**34-614A. Candidates for state legislature.** (1) A candidate for the office of state senator in a multi-member legislative district, and all candidates for the office of representative shall declare, in their declarations of candidacy, the specific seat or position that they seek.

(2) The secretary of state shall designate positions by using the terms “**Position A**”, “**Position B**”, and continuing in such fashion until all seats or positions in each district are properly labeled. The positions in each district shall be separately and distinctly placed on the primary and general election ballots, and for each position to be filled the ballot shall state “**Vote for one**”.

(3) The candidate receiving the greatest number of votes for the position he seeks shall be declared nominated, or elected, as the case may be.

**History:** S.L. 1975, Ch. 230; S.L. 1984, Ch. 121

**34-615. Election — Selection — of Justices of the Supreme Court — Qualifications.** (1) At the primary election, 1972, and every alternate year thereafter, subject to the provisions of section 34-1217, *Idaho Code*, there shall be elected justices of the Supreme Court to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members. To be elected or appointed to the office of justice of the supreme court a person must, at the time of such election or appointment, meet all the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector of the state of Idaho;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election or appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election or appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election or appointment.

For purposes of this section, the following terms have the following meanings:

(a) “**Active**,” “**Judicial**” and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;

(b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia or any branch of the United States military; and

(c) “**Elector**” means one who is lawfully registered to vote.

(3) Each candidate for election shall file a declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of three hundred dollars (\$300) which shall be deposited in the general fund.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 46; S.L. 1985, Ch. 29; S.L. 1996, Ch. 28; S.L. 2015, Ch. 310

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**NOTE 34-615:** Except for magistrate, judicial candidates obtain filing documents from the Secretary of State and file with the Secretary of State. Magistrates file with the county clerk of the county in which the magistrate will be housed.

Appellate Court Judges' qualifications are the same as those for Supreme Court Judge., *Idaho Code*, 1-2404, see page D-3.

**34-616. Election — Selection — of District Judges — Qualifications.** (1) At the primary election, 1974, and every four (4) years thereafter, subject to the provisions of section 34-1217, *Idaho Code*, there shall be elected in each judicial district a sufficient number of district judges to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

(2) To be elected to the office of district judge a person must, at the time of such election, meet all of the following qualifications;

- (a) Be at least thirty (30) years of age;
- (b) Be a citizen of the United States and an elector in the judicial district in which elected;
- (c) Have been a legal resident in the state of Idaho for at least two (2) continuous years immediately preceding such election;
- (d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election; and
- (e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election.

(3) Each candidate for election shall file a declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of one hundred fifty dollars (\$150) which shall be deposited in the general fund.

(5) To be appointed to the office of district judge a person must, at the time of such appointment, meet all of the following qualifications:

- (a) Be at least thirty (30) years of age;
- (b) Be a citizen of the United States and an elector of the state of Idaho; have been a legal resident in the state of Idaho for at least two (2) continuous years immediately preceding such appointment;
- (c) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and
- (d) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such appointment.
- (6) For purposes of this section, the following terms have the following meanings:
  - (a) “**Active**,” “**judicial**” and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;
  - (b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia or any branch of the United States military; and
  - (c) “**Elector**” means one who is lawfully registered to vote.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 46; S.L. 1985, Ch. 29; S.L. 1996, Ch. 28; S.L. 2015, Ch. 282 and 310; S.L. 2016, Ch. 47

**34-617. Election of County Commissioners — Qualifications.** (1) A board of county commissioners shall be elected in each county at the general elections as provided by section 31-703, *Idaho Code*.

(2) No person shall be elected to the board of county commissioners unless he has attained the age of twenty-one (21) years at the time of the election, is a citizen of the United States, and shall have resided in the county one (1) year next preceding his election and in the district which he represents for a period of ninety (90) days next preceding the primary election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

**History:** S.L. 1970, Ch. 140; S.L. 1982, Ch. 332; S.L. 1993, Ch. 159; S.L. 1996, Ch. 28

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**NOTE 34-617:** County Commissioner candidates obtain filing documents from the County Clerk and file with the County Clerk. Signatures must be from the respective commissioner district. Upon receipt of the filing, the County Clerk should verify signatures to be those of qualified electors from the appropriate commissioner district. Note the 90-day residency in the district prior to the primary in this section.

**34-618. Election of County Sheriffs — Qualifications.** (1) At the general election, 1972, and every four (4) years thereafter, a sheriff shall be elected in every county.

(2) No person shall be elected to the office of sheriff unless he has attained the age of twenty-one (21) years and is not a convicted felon at the time of election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

(5) Each person who has been elected to the office of sheriff for the first time shall complete a tutorial concerning current Idaho law and rules as prescribed by the Idaho peace officers standards and training academy, unless the person is already certified as a chief of police, peace officer or detention deputy in the state of Idaho, and shall attend the newly elected sheriff's school sponsored by the Idaho sheriffs' association.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28; S.L. 2008, Ch. 329

**NOTE 34-618:** County candidates obtain filing documents from the County Clerk and file with the County Clerk. Upon receipt of the filing, the County Clerk should verify signatures to be those of qualified electors. You should note that all county officials, except prosecuting attorney, shall have resided in the county for one (1) year prior to the November election.

**34-619. Election of Clerks of District Court — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a clerk of the district court shall be elected in every county. The clerk of the district court shall be the ex-officio auditor and recorder.

(2) No person shall be elected to the office of clerk of the district court unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

**History:** S.L. 1970, Ch. 140; S.L. 1996, Ch. 28

**34-620. Election of County Treasurers — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a county treasurer shall be elected in every county. The county treasurer shall be the ex-officio public administrator and ex-officio tax collector.

(2) No person shall be elected to the office of county treasurer unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 193; S.L. 1996, Ch. 28

**34-621. Election of County Assessors — Qualifications.** (1) At the general election, 1974, and every four (4) years thereafter, a county assessor shall be elected in every county.

(2) No person shall be elected to the office of county assessor unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 193; S.L. 1996, Ch. 28

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**34-622. Election of County Coroners — Qualifications.** (1) At the general election, 1986, and every four (4) years thereafter, a coroner shall be elected in every county.

(2) No person shall be elected to the office of coroner unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

(5) All newly elected or appointed county coroners shall attend a coroner's school within one (1) year of taking office. Such school shall be sponsored or endorsed by the Idaho state association of county coroners.

**History:** S.L. 1970, Ch. 140; S.L. 1994, Ch. 54; S.L. 1996, Ch. 28; S.L. 2010, Ch. 355

**34-623. Election of County Prosecuting Attorneys — Qualifications.** (1) At the general election, 1984, and every four (4) years thereafter, a prosecuting attorney shall be elected in every county.

(2) No person shall be elected to the office of prosecuting attorney unless he has attained the age of twenty-one (21) years at the time of his election, is admitted to the practice of law within this state, is a citizen of the United States and a qualified elector within the county.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 115; S.L. 1984, Ch. 80; S.L. 1996, Ch. 28

**NOTE 34-623:** Candidates must meet the qualifications at the time of the general election (i.e., admitted to practice of law within state and qualified elector). Note that a qualified elector is someone who is registered to vote. (See I.C. [34-104](#))

**34-624. Election of Precinct Committeemen — Qualifications.** (1) At the primary election, 1980, and every two (2) years thereafter, a precinct committeeman for each political party shall be elected in every voting precinct within each county. The term of office of a precinct committeeman shall be from the eighth day following the primary election until the eighth day following the next succeeding primary election.

(2) No person shall be elected to the office of precinct committeeman unless he has attained the age of eighteen (18) years at the time of his election, is a citizen of the United States, a registered elector of and shall have resided within the voting precinct for a period of six (6) months next preceding his election.

(3) Each candidate shall file a declaration of candidacy with the county clerk.

(4) No filing fee shall be charged any candidate at the time of his filing his declaration of candidacy.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 29; S.L. 1972, Ch. 128; S.L. 1975, Ch. 174; S.L. 1979, Ch. 309; S.L. 1996, Ch. 28; S.L. 2011, Ch. 285

**NOTE 34-624:** Precinct committeemen obtain the filing document from the County Clerk and file with the County Clerk. No signatures are needed for precinct committeeperson. Note that in order to be elected, a precinct committeeman must receive at least 5 votes. (I.C. [34-1208](#))

**34-624A. Alternative to precinct committeeman — Precinct committeeman and voters' delegate to the party's county and district conventions.** (1) At least sixty (60) days prior to an election at which precinct committeemen are to be elected, the state chairman of any Idaho political party may request the secretary of state to replace, as to that party chairman's party, the ballot position title of "**precinct committeeman**" with the ballot position title "**precinct committeeman and voters' delegate to the party's county and district conventions.**" The party chairman making such a request to the secretary of state shall include with his request a sworn and acknowledged affidavit stating that he is the party chairman for his political party and that it is the state policy of his party that precinct committeemen be delegates to the party's county and district conventions.

(2) Upon receipt of such request and affidavit, the secretary of state shall have the duty to implement the request when prescribing the form and content of ballots and related documents and when preparing ballot instructions for Idaho counties.

(3) After the secretary of state has ordered such use, whenever the title "**precinct committeeman**" or its plural form shall be used in the *Idaho Code*, the title shall be construed to include within its meaning the title "**precinct committeeman and voters' delegate to the party's county and district conventions**" or its plural form.

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**History:** S.L. 1976, Ch. 346

**NOTE 34-624A:** Allows for different ballot language for the republican precinct committeeman.

**34-625. Election of highway district commissioners in single countywide districts — Qualifications.** (1) In each general election, highway district commissioners in single countywide districts shall be elected as provided for in section 40-1404, *Idaho Code*. No person shall be elected to the office of highway district commissioner unless he shall have attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(2) Each candidate shall file a declaration of candidacy with the county clerk not less than ninety (90) days prior to the general election. Each declaration of candidacy shall also bear the following words: **"I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number ...."**

(3) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars (\$10.00) which shall be deposited in the county current expense fund.

**History:** S.L. 1972, Ch. 345; S.L. 1985, Ch. 253; S.L. 1987, Ch. 75; S.L. 1998, Ch. 300; S.L. 2007, Ch. 313

**NOTE 34-625:** Pertains to Ada County only, which is the only county with a county-wide highway district. Candidates obtain filing documents from the County Clerk and file with the County Clerk.

The County Clerk should verify residency of the candidate upon receipt of the filing.

**34-625A. Election of Highway District Commissioners in certain single countywide districts — qualifications.** (1) In each general election, highway district commissioners in single countywide districts shall be elected as provided for in section 40-1404A, *Idaho Code*.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not less than ninety (90) days prior to the general election. Each declaration of candidacy shall also bear the following words: **"I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number ..."**

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars (\$10.00) which shall be deposited in the county current expense fund.

**History:** S.L. 1998, Ch. 300; S.L. 2007, Ch. 313

**NOTE 34-625A:** Allows counties in a single countywide highway district by affirmative vote to expand the number of Commissioners from 3 to 5 members.

**34-626. Petition in lieu of filing fee.** In lieu of paying the filing fee, candidates may qualify for the offices mentioned in Section 34-604 through Section 34-623, *Idaho Code*, by filing a declaration of candidacy and a nominating petition. The petition shall contain the signatures of qualified electors as follows:

- (a) One thousand (1,000) for any statewide office;
  - (b) Five hundred (500) for any congressional district office (all signatures within proper district);
  - (c) Two hundred (200) for the office of district judge (all signatures within proper district);
  - (d) Fifty (50) for any legislative district office (all signatures within proper district);
  - (e) Five (5) for any county office (County Commissioner signatures shall be within commissioner district).
- Signatures on such nominating petitions shall be verified in the manner prescribed in section 34-1807, *Idaho Code*.

**History:** S.L. 1983, Ch. 213; S.L. 1986, Ch. 183; S.L. 1996, Ch. 28

**NOTE 34-626:** Candidates may file petitions in lieu of paying the filing fee. Requires signatures to be verified by the County Clerk. It is recommended that county candidate petitions be verified while the candidate waits. This gives the candidate an opportunity to obtain additional signatures if necessary.

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**34-627. Holders of partisan elective office changing political parties.** Whenever any holder of a partisan elective office desires to change political parties, the change shall only be effective if the holder files a declaration of intent to change political parties with the election official with whom the holder of the partisan elective office has filed his declaration of candidacy for the office that the holder of the partisan elective office currently holds. After receiving the declaration of intent, the election official shall send a copy of the declaration to the affected political party central committees of both the political party, if any, that the holder of the partisan elective office desires to leave and the political party, if any, that the holder of the partisan elective office desires to join. A holder of a partisan elective office cannot change political parties between the date the holder of partisan elective office files for the primary election through three (3) months after the general election in which the partisan elective office was on the ballot. A holder of a partisan elective office only may change political parties pursuant to this section once per term. The election official shall be authorized to charge a holder of a partisan elective office desiring to change his political party a twenty-five dollar (\$25.00) fee to defray the election official's expenses in administering the provisions of this section.

**History:** S.L. 1997, Ch. 202; S. L. 2017, Ch. 21

**NOTE 34-627:** Clarifies when and how holders of partisan elected office in Idaho can change party affiliation while serving in office.



## Chapter 7: Nominations — Conventions — Primary Elections

**34-701. Declarations of candidacy and petitions — Form prescribed by secretary of state — Filing fees.** (1) The secretary of state shall prescribe the form for all declarations of candidacy and petitions required to be filed for any office. This form shall be uniform throughout the state; provided, however, that a candidate for judicial office must designate the particular office that he seeks, both in his petitions and declaration of candidacy.

(2) All filing fees shall be paid in cash, cashier's check, postal money orders, or personal check.

**History:** S.L. 1970, Ch. 140; S.L. 1983, Ch. 213

**NOTE 34-701:** Secretary of State designs candidate declarations and petitions to be uniform throughout the state.

**34-702. Requirements for Write-in Candidates at Primary.** In addition to possessing all other qualifications, in order to become a candidate of a political party at the general election, those candidates whose names are written in at the primary election must receive at least the following number of write-in votes at the primary election:

(1) One thousand (1,000) for any statewide office;

(2) Five hundred (500) for a congressional district office;

(3) Fifty (50) for a legislative district office;

(4) Five (5) for a county office, file a declaration of candidacy for that office and must pay the filing fee required for that office within ten (10) days following the primary election canvass; provided, however, that no write-ins shall be allowed for judicial office.

**History:** S.L. 1970, Ch. 140; S.L. 1976, Ch. 60; S.L. 1996, Ch. 28

**NOTE 34-702:** A write-in candidate can be placed on the general election ballot only after receiving at least as many write-in votes as the minimum number of signatures required for the office they have been written in for, file a declaration and pay the required filing fee for such office within 10 days following the primary canvass.

**34-702A. Declaration of intent for write-in candidates.** No write-in vote for any office in a primary, special, or general election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of said office if elected. The declaration of intent shall be filed with the secretary of state if for a federal, state, or legislative district office and with the county clerk if for a county office. Such declaration of intent shall be filed not later than twenty-eight (28) days before the day of election. The secretary of state shall prescribe the form for said declaration.

In those counties which utilize optical scan ballots an elector shall not place on the ballot a sticker bearing the name of a person, or use any other method or device, except writing, to vote for a person whose name is not printed on the ballot.

**History:** S.L. 1983, Ch. 213; S.L. 1992, Ch. 176; S.L. 1993, Ch. 313; S.L. 1999, Ch. 221; S.L. 2001, Ch. 272; S.L. 2010, Ch. 162

**NOTE 34-702A:** See Secretary of State's Directive, on page J-29 regarding the use of stickers. Only write-in votes for a declared write-in are to be counted.

Prohibits the use of stickers in an optical scan county by a write-in candidate. Some central count optical scan readers use gates to separate ballots with write-ins and unreadable ballots from tabulated ballots. Stickers have a tendency to curl causing the ballot to get hung up on the gates which can result in the scanner/tabulator to fail to function properly.

**34-703. Nomination at primary.** (1) All political party candidates for United States senator and representative in congress and all political party candidates for elective state, district and county offices, except candidates for judicial office, at general elections shall be nominated at the primary elections, or shall have their names placed on the general election ballot as provided by law, and shall comply with the provisions of this act.

(2) All candidates for judicial office shall be nominated or elected at the primary election, as provided by section 34-1217, *Idaho Code*.

(3) Independent candidates shall not be voted on at primary elections.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 46; S.L. 1976, Ch. 60

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**NOTE 34-703:** Partisan candidates for public office are nominated to represent the party at the primary election. Prohibits independent candidates from being voted on in the primary.

**34-704. Declaration of candidacy.** Any person legally qualified to hold such office is entitled to become a candidate and file his declaration of candidacy. Each political party candidate for precinct, state, district or county office shall file his declaration of candidacy in the proper office between 8 a.m., on the twelfth Monday preceding the primary election and 5 p.m., on the tenth Friday preceding the primary election. All political party candidates shall declare their party affiliation in their declaration of candidacy and shall be affiliated with a party at the time of filing. A candidate shall be deemed affiliated with the political party if the candidate submits a party affiliation form along with the declaration of candidacy to the filing official. The filing official shall reject any declaration of candidacy for partisan office in a primary election from candidates who are not affiliated with a political party. Candidates for nonpartisan office shall file during the period provided for in this section.

Candidates who file a declaration of candidacy under a party name and are not nominated at the primary election shall not be allowed to appear on the general election ballot under any other political party name, nor as an independent candidate. Independent candidates shall file their declaration of candidacy in the manner provided in section 34-708, *Idaho Code*.

**History:** S.L. 1971, Ch. 5; S.L. 1971, Ch. 188; S.L. 1972, Ch. 46; S.L. 1972, Ch. 346; S.L. 1975, Ch. 174; S.L. 1976, Ch. 60; S.L. 1979, Ch. 309; S.L. 1983, Ch. 213; S.L. 1984, Ch. 8; S.L. 1984, Ch. 173; S.L. 1989, Ch. 70; S.L. 2003, Ch. 48; S.L. 2012, Ch. 211

**NOTE 34-704:** Prohibits candidates who lose in the primary from appearing on the general election ballot under any other party name or as an independent candidate. This does not prohibit the person from running as a write-in since the person's name does not appear on the ballot but must be written in by the voter.

Requires political party candidates to declare their party affiliation on their Declaration of Candidacy and must be affiliated with the party at the time of filing their Declaration of Candidacy. The candidate can submit an Idaho Political Party Affiliation Declaration Form along with their Declaration of Candidacy to the filing official to designate the desired party. The filing officer shall reject any declaration of candidacy for partisan office in a primary election from candidates who are not affiliated with the political party stated in the Declaration.

First day for partisan and independent candidates to file during the same time period.

Last day for partisan and independent candidates to file is not later than 5:00 p.m. on March 14, 2014.

**34-705. With whom declarations filed.** All candidates for county offices, whether political party candidates or independent candidates, and all political party candidates for precinct offices shall file their declarations of candidacy with the county clerk of their respective counties. All candidates for district, state and federal offices shall file their declarations of candidacy with the secretary of state.

The secretary of state, shall certify to the county clerks, within ten (10) days after the filing deadline, the names of the political party candidates who filed for federal, state and district offices and are qualified and by not later than the tenth day prior to the primary shall certify the names of political party candidates who have been appointed by central committees to fill vacancies as provided by section 34-714, *Idaho Code*.

**History:** S.L. 1971, Ch. 5; S.L. 1971, E.S., Ch. 9; S.L. 1976, Ch. 60

**NOTE 34-705:** Secretary of State certifies candidates to fill vacancies for federal, state and district offices to the County Clerk immediately after notified by the political party central committee.

**34-706. Notification to parties.** Within three (3) days after the deadline for filing declarations of political party candidacy the county clerk shall notify the county central committee of each political party of the candidates who have filed for county and precinct offices under the party name and are qualified.

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Within three (3) days after the deadline for filing declarations of political party candidacy the secretary of state shall notify the legislative district central committee of each political party of the legislative candidates who have filed under the party name and are qualified.

Within three (3) days after the deadline for filing declarations of political party candidacy the secretary of state shall notify the state central committee of each political party of the candidates who have filed for federal and state offices under the party name and are qualified.

**History:** S.L. 1971, Ch. 5; S.L. 1971, Ch. 188; S.L. 1971, 1st E.S., Ch. 9; S.L. 1976, Ch. 60; S.L. 1989, Ch. 70

**NOTE 34-706:** The County Clerk notifies the County Central Committee of all county and precinct candidates within 3 days after the deadline for filing declarations.

The Secretary of State notifies State and Legislative District Central Committees of federal, statewide and legislative candidates within 3 days after the deadline for filing declarations.

**34-707. Party conventions.** A state convention shall be held by each political party in each election year at a time and place determined by the state central committee. The state central committee chairman shall preside and cause notice to be given to each legislative district central committee and each county central committee at the earliest possible date.

Each state convention shall write and adopt rules and regulations governing the conduct of their respective conventions.

At their convention each political party may:

- (1) Adopt and write a party platform.
- (2) Elect any desired officers not otherwise provided for by law.
- (3) In the year of presidential elections (a) elect delegates to the national convention in the manner prescribed by national party rules; (b) elect a national committeeman and a national committeewoman; and (c) select presidential electors.
- (4) Adopt rules, regulations and directives regarding party policies, practices and procedures.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 5; S.L. 1971, 1st E.S., Ch. 9; S.L. 1973, Ch. 122; S.L. 1980, Ch. 236; S.L. 2003, S.L. 94

**34-708. Independent Candidates.** (1) No person may offer himself as an independent candidate at the primary election.

(2) Any person who desires to offer himself as an independent candidate for federal, state, district, or county office may do so by complying strictly with the provisions of this section. In order to be recognized as an independent candidate, each such candidate must file with the proper officer as provided by section 34-705, *Idaho Code*, a declaration of candidacy as an independent candidate, during the period specified in section 34-704, *Idaho Code*. Such declaration must state that he is offering himself as an independent candidate, must declare that he has no political party affiliation, and must declare the office for which he seeks election. Each such declaration must be accompanied by a petition containing the following number of signatures of qualified electors:

- (a) One thousand (1,000) for any statewide office;
- (b) Five hundred (500) for any congressional district office;
- (c) Fifty (50) for any legislative district office;
- (d) Five (5) for any county office.

(3) Signatures on the petitions required in this section shall be verified in the manner prescribed in section 34-1807, *Idaho Code*.

(4) If all of the requirements of this section have been met, the proper officer shall cause the name of each independent candidate who has qualified to be placed on the general election ballot, according to instructions of the secretary of state.

**History:** S.L. 1976, Ch. 60; S.L. 1979, Ch. 309; S.L. 1995, Ch. 115; S.L. 1996, Ch. 28; S.L. 2003, Ch. 293

**NOTE 34-708:** Independent candidates file during the same period as partisan candidates. They are required to file petitions sign by the requisite number of registered voters. This shows they are valid candidates and have voters' support in running. Independents do not pay a filing fee.

Anyone running as an independent candidate must be registered as an unaffiliated voter (no party affiliation).

Independent candidates do not appear on the primary ballot but are placed directly on the general election ballot.

Independent candidates must file petitions and do not pay a filing fee.

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**34-708A. Independent candidates for president and vice-president.** Persons who desire to be independent candidates for the offices of president and vice-president, must file, prior to August 25 of the election year, declarations of candidacy as independent candidates. Such declarations must state that such persons are offering themselves as independent candidates and must declare that they have no political party affiliation. The declarations shall have attached thereto a petition signed by one thousand (1,000) qualified electors.

The candidates for president and vice-president shall be considered as candidates for one (1) office, and only one (1) such petition need be filed for both offices.

Signatures on the petitions required by this section shall be verified in the manner prescribed in Section 34-1807, *Idaho Code*, provided that the petition circulators are not required to be Idaho residents.

**History:** S.L. 1977, Ch. 14; S.L. 1979, Ch. 309; S.L. 1985, Ch. 42; S.L. 1987, Ch. 262; S.L. 1996, Ch. 28; S.L. 2011, Ch. 285

**NOTE 34-708A:** Independent candidates for the office of President must file a declaration with the Secretary of State no later than August 24th in a presidential election year. Such declarations must state that the individuals are offering themselves as independent candidates and must declare that they have no political party affiliation. The Secretary of State will certify independent presidential candidates for placement on the general election ballot to the County Clerk.

Signatures on petitions shall be verified prior to being filed with the Secretary of State. Unlike other petitions, the person gathering signatures is not required to be an Idaho resident or registered voter.

### **34-709 - 34-710. [Repealed — S.L. 1971, 1st E.S., Ch. 9]**

**34-711. Certification of candidates for president, vice president and presidential electors.** The state chairman of each political party shall certify the names of the presidential and vice-presidential candidates and presidential electors to the secretary of state on or before September 1, unless a five (5) day extension is granted by the secretary of state in order for them to appear on the general election ballot. The secretary of state shall certify such candidates to the county clerks at the same time as certification of political party candidates nominated for state and federal offices by the voters in the primary election.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 346; S.L. 1976, Ch. 60; S.L. 1984, Ch. 131; S.L. 1985, Ch. 42; S.L. 2003, Ch. 94)

**NOTE 34-711:** State Chairman of each political party certifies the names of presidential and vice-presidential candidates and presidential electors who are to appear on the General Election ballot to the Secretary of State in a presidential election year. In the event the party national convention is not held in time to meet the certification deadline, the Secretary of State can extend the deadline up to 5 days.

The Secretary of State will certify names to clerk.

**34-711A. Certification of independent presidential electors.** Independent candidates who have qualified for ballot status pursuant to section 34-708A, *Idaho Code*, shall certify the names of presidential electors to the secretary of state on or before September 1, in order for them to appear on the general election ballot. The secretary of state shall certify the independent presidential electors, and the independent candidates for president and vice-president, to the county clerks on or before September 7.

**History:** S.L. 1977, Ch. 14; S.L. 1984, Ch. 131; S.L. 1985, Ch. 42

**NOTE 34-711A:** Independent candidates for the office of president must certify presidential electors by September 1st to the Secretary of State. The Secretary of State will certify names to the County Clerk.

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**34-712. Sample form for primary election ballots.** The secretary of state shall provide the sample form of the primary election ballot to each of the county clerks no later than forty (40) days prior to the primary. The sample ballot shall contain the proper political party candidates to be voted upon within the county whose declarations were filed and certified in the office of the secretary of state with instructions for the placing of political party candidates seeking the political party nomination for county and precinct offices. If a county is within more than one (1) legislative district, the secretary of state shall provide a sample ballot for each legislative district which includes part of the county.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 188; S.L. 1971, 1st E.S., Ch. 9; S.L. 1972, Ch. 346; S.L. 1976, Ch. 60

**NOTE 34-712:** The Secretary of State is to provide sample ballots to the County Clerk not later than 40 days prior to the primary.

**34-713. Preparation of primary ballots.** Upon receipt of the sample ballot and instructions from the secretary of state, each county clerk shall print and prepare the official primary ballots for the forthcoming election. The printing of the ballots shall be a county expense and paid out of the county treasury except presidential primary ballots, which shall be paid for as provided in section 34-738, *Idaho Code*.

Each county clerk shall cause to be published on the earliest date possible the names of all the political party candidates who shall appear on the primary or presidential primary ballot. The names shall be listed alphabetically under each particular office title.

**History:** S.L. 1970, Ch. 140; S.L. 1975, Ch. 174; S.L. 1976, Ch. 60; S.L. 1979, Ch. 309; S.L. 2012, Ch. 33; S.L. 2015, Ch. 292)

**NOTE 34-713:** The printing of ballots is a county expense, except for presidential primary ballots, which are reimbursed by the state.

The publication of names of candidates is accomplished by publishing the sample ballot in conjunction with the Second Notice of Election.

**34-714. Filling vacancies in slate of political party candidates occurring prior to primary election.** (1) Vacancies that occur before the primary election in the slate of candidates of any political party because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate, shall be filled in the following manner if only one (1) candidate declared for that particular office:

- (a) By the county central committee if the vacancy occurs for the office of precinct committeeman or for a county office.
- (b) By the legislative district central committee if the vacancy occurs for the office of state representative or state senator.
- (c) By the state central committee if the vacancy occurs for a federal or state office.

The county and legislative district central committee shall fill the vacancy within fifteen (15) days from the date the vacancy occurred. The state central committee shall fill the vacancy within thirty (30) days from the date the vacancy occurred.

Any political party candidate so appointed by the proper central committee must, in order to have his name on the primary ballot, file a declaration of candidacy and pay the required filing fee.

(2) No central committee shall fill any vacancy which occurs within ten (10) days prior to the primary election. Vacancies which occur during this ten (10) day period because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate shall be filled according to the provisions of section 34-715, *Idaho Code*.

(3) Vacancies that occur in a slate of candidates for precinct committeeman within ten (10) days prior to the primary election shall not be filled.

**History:** S.L. 1970, Ch. 140; S.L. 1971, 1st E.S., Ch. 9; S.L. 1975, Ch. 21; S.L. 1976, Ch. 60; S.L. 1989, Ch. 70; S.L. 1996, Ch. 28; S.L. 1999, Ch. 222

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**NOTE 34-714:** Provides for filling vacancies in the event of the death, withdrawal, or disqualification of a candidate if only 1 candidate has declared for that particular office, (except for precinct committeeman) within 10 days of the primary. If vacancy is after the 10 days, the vacancy will be filled after the primary for the general election. Vacancies that exist simply because no candidate files cannot be filled.

Vacancy must be filled by appropriate central committee within 15 days if county or legislative vacancy and within 30 days of a statewide vacancy.

Individual appointed to fill the vacancy must file a declaration and pay the filing fee. Petitions are not required.

**34-715. Filling of vacancies occurring before or after primary election.** Vacancies that occur during the ten (10) day period before a primary election, or after the primary election but at least ten (10) days before the general election in the slate of candidates of any political party, except candidates for precinct committeeman, shall be filled in the following manner:

- (1) By the county central committee if it is a vacancy by a candidate for a county office.
- (2) By the legislative district central committee if it is a vacancy by a candidate for the state legislature.
- (3) By the state central committee if it is a vacancy by a candidate for a federal or a state office.

The county and legislative district central committee shall fill the vacancy within fifteen (15) days from the date the vacancy occurred. The state central committee shall fill the vacancy within thirty (30) days from the date the vacancy occurred.

Any political party candidate so appointed by the proper central committee must, in order to have his name on the general ballot, file a declaration of candidacy and pay the required filing fee.

Vacancies that occur in a slate of candidates for precinct committeeman within ten (10) days prior to the primary election shall not be filled.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 346; S.L. 1976, Ch. 60; S.L. 1977, Ch. 21; S.L. 1983, Ch. 213; S.L. 1996, Ch. 28; S.L. 1999, Ch. 222

**NOTE 34-715:** Provides for filling vacancies (except for precinct committeeman) which occur during the 10 day period before the primary but at least 10 days before the general election.

Individual appointed to fill vacancy must file a declaration and pay filing fee. Petitions are not required.

Vacancy must be filled by appropriate central committee within 15 days if county or legislative vacancy and within 30 days of a statewide vacancy.

**34-716. Vacancies of candidates for nonpartisan offices occurring before general election not filled — Exceptions — Judicial offices.** (1) All vacancies of candidates for nonpartisan offices that occur after the primary election but before the general election, except vacancies in the offices of nominated candidates for judicial office which shall be filled as provided in this section, shall not be filled.

(2) If a candidate for judicial office has received a majority of the votes cast for the office at the primary election, he shall be deemed elected as provided by section 34-1217, *Idaho Code*. Thereafter, if the judge-elect dies, moves from the state, or otherwise becomes ineligible to serve in the judicial office, the secretary of state shall declare that a vacancy exists in the judicial office, but that no other candidate for the office will be offered at the general election. The vacancy shall be filled as provided by law, as if the judge-elect had already assumed office.

(3) If three (3) or more candidates sought a judicial office at the primary election, and no candidate for the judicial office received a majority of the votes cast for the office at the primary election, and either of the candidates certified to be a nominee at the general election dies, moves from the state, or otherwise becomes ineligible to serve in the judicial office, the secretary of state shall cause the name or names of the candidate or candidates receiving the next highest number of votes cast at the primary election after the two (2) candidates certified, to be certified as nominees for the judicial office at the general election, so that two (2) candidates shall be offered for each judicial office to be filled. In the event only one (1) vacancy on the general election ballot is to be filled by the procedure outlined in this subsection, and there exists a tie among

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two (2) or more judicial candidates receiving the next highest number of votes, such candidates, or their personal designees, shall meet in the office of the secretary of state at a time fixed by him upon ten (10) days written notice to such interested candidates, or their designees, and a candidate to fill each such vacancy on the general election ballot shall be selected by lot from the candidates receiving the same number of votes at the primary election. The secretary of state shall cause the name of the persons so selected to appear on the general election ballot.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 333

**NOTE 34-716:** Deals with judicial offices with duties performed by the Secretary of State.

**34-717. Withdrawal of candidacy.** (1) A candidate for nomination or candidate for election to a partisan office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. The filing officer shall immediately notify the proper central committee of the party, if any, of the individual withdrawing. A candidate may not withdraw later than forty-five (45) days before an election, except in the case of a primary election, when the deadline shall be no later than the eighth Friday preceding the primary election, or a general election, when the deadline shall be no later than September 7. Filing fees paid by the candidate shall not be refunded.

(2) Any candidate who has filed a statement of withdrawal pursuant to this section shall not be allowed to be appointed to fill a vacancy unless such vacancy occurs because of the death of a previous candidate.

**History:** S.L. 1983, Ch. 213; S.L. 1999, Ch. 222; S.L. 2011, Ch. 11; S.L. 2015, Ch. 155

**NOTE 34-717:** To remove a candidate from the ballot, a notarized statement of withdrawal must be filed not later than 45 days before an election, not later than the 8th Friday preceding a primary election for a candidate in the primary election and not later than September 7th for a candidate in the general election with the officer with whom the declaration of candidacy was filed. Faxes are acceptable in order to meet the deadline as long as the signature is notarized. Original shall be forwarded to the filing officer. The filing fee is not returned.

Only when a vacancy occurs because of death, may a candidate who has filed previously and withdrawn be appointed to fill such vacancy.

**34-718 - 34-722. [Repealed - S.L. 1972, Ch. 333]**

**34-723 - 34-730. [Reserved]**

**34-731 - 34-738. [Repealed - S.L. 2012, Ch. 33]**

**34-731. Presidential primary.** (1) In years in which a president of the United States is to be nominated and elected, a presidential primary shall be held at which voters may express their choice of candidate for nomination by a political party for president. The presidential primary shall be held on the second Tuesday in March in each presidential election year.

(2) Participation in a presidential primary by a political party shall be optional, and nothing in this chapter shall be construed as mandating a party's participation in a presidential primary. Any party that intends to participate in a presidential primary shall notify the secretary of state's office no later than the last Tuesday in November prior to the presidential primary.

**History:** S.L. 2015, Ch. 292

**NOTE 34-731:** A presidential primary is held the second Tuesday in March in presidential election years.

A party's participation in a presidential primary is optional. Parties must notify the secretary of state office before the last Tuesday in November prior to the presidential primary election if they will be participating in the election.

\*\*\*\*\* **Contact the parties in early November to remind them of the deadline.** \*\*\*\*\*

## IDAHO CODE: TITLE 34, CHAPTER 7

**34-732. Candidates.** The name of any candidate for a political party nomination for president of the United States shall be printed on the ballots only if the candidate files with the secretary of state a declaration of candidacy accompanied by a one thousand dollar (\$1000) filing fee not less than ninety (90) days prior to the presidential primary.

**History:** S.L. 2015, Ch. 292

**34-733. Removal from ballot.** In the event the secretary of state is informed of a candidate's death, incapacity or withdrawal from candidacy, the secretary of state may remove the name of such candidate from the ballot, provided however, that no candidate's name shall be removed within the forty-five (45) days preceding the presidential primary.

**History:** S.L. 2015, Ch. 292

**34-734. Voting.** At a presidential primary, qualified electors may vote for one (1) candidate among the candidates of one (1) political party only in a manner consistent with the provisions of section 34-904A, *Idaho Code*.

**History:** S.L. 2015, Ch. 292

**NOTE 34-734:** Electors can only vote for one candidate of one political party during a presidential primary.

**34-735. Presidential primary — Results.** Upon completion of the state canvass for the presidential primary, the secretary of state shall certify to the state chair of each political party participating in the presidential primary the number of votes received by each candidate of that party. A winner shall be declared as prescribed by rule of the state and national party.

**History:** S.L. 2015, Ch. 292

**34-736. Delegates to the national convention.** Upon receiving the results of the presidential primary pursuant to section 34-735, *Idaho Code*, each party participating in the presidential primary shall select, according to the national and state party rules, as many delegates and alternates to the national party convention as are allotted to it by the national committee of that party.

**History:** S.L. 2015, Ch. 292

**34-737. Conduct of election.** Insofar as practicable, and where the provisions of this chapter do not specifically indicate otherwise, the presidential primary shall be conducted and canvassed in the manner provided by law for the conduct and canvassing of state primary elections.

**History:** S.L. 2015, Ch. 292

**34-738. Costs of presidential primary.** (1) Whenever a presidential primary is held as provided by this chapter, the state of Idaho shall assume all costs related to the presidential primary, including publication of legal notice and ballot preparation. The county clerk shall determine the costs and file a certified claim, which shall be examined, allowed and paid as other claims against the state are paid.

(2) The costs of any other election held simultaneous to the presidential primary shall be covered in the manner elsewhere prescribed by law.

**History:** S.L. 2015, Ch. 292

**NOTE 34-738:** The state assumes all cost related to the presidential primary. Counties pay the cost of the elections and the County Clerk is to submit a bill to the Secretary of State for reimbursement from the appropriation of funds from the legislature for that purpose. In the event the cost of the election is more than the amount appropriated, funds are to be distributed proportionally and the Secretary is to go to the Legislature for a supplemental appropriation to cover the remaining costs.

Cost of election's held simultaneous to the presidential primary are covered in the manner described by law. Cost sheets for reporting the cost of the election to the Secretary of State are available from our elections drive (M:) in the ABSTRACTS folder under Cost Sheets. There is also an instruction sheet that accompanies it. These are sent to the counties for the County Clerk to fill out and attest to. The County Clerk keeps the actual receipts and the Counties are reimbursed by our fiscal office from the cost sheets.

**34-739. [Repealed - S.L. 2012, Ch. 33]**

**34-740. Rules.** The secretary of state as chief election officer may adopt such rules as are necessary to facilitate the operation, accomplishment and purpose of this chapter.

**History:** S.L. 1975, Ch. 174; S.L. 2015, Ch. 292

## Chapter 8: Registration Of Electors

34-801 - 34-818. [Repealed - S.L. 1970, Ch. 140]  
(New law contained Chapter 4 herein)



## Chapter 9: Ballots

**34-901. Official election ballot identification.** (1) The county clerk shall provide that all election ballots are identified as official. Each ballot shall have upon its face the date and year of the election in which it is used and the words “**Official Election Ballot.**”

(2) The clerk in a county that utilizes optical scan ballots shall ensure that:

- (a) The official election ballot identification is printed on each ballot issued; and
- (b) Each ballot contains a unique marking to prevent duplication of official election ballots.

(3) The clerk in a county that utilizes paper or other ballots shall provide an official election stamp of such character or device and of such material as the board of county commissioners may select. In the event such stamp is lost, destroyed or unavailable upon election day, the distributing clerk shall initial each ballot and write “**stamped**” upon the ballot in the appropriate place.

**History:** S.L. 1970, Ch. 140; S. L. 2013, Ch. 285

**NOTE 34-901:** Each ballot is identified with “Official Election Ballot” identification printed on the face of the ballot and stamped with the official ballot stamp when given to the voter. If the stamp is missing, each ballot must be initialed by the distributing clerk who will write “stamped” on the ballot. **Remember to stamp the ballot, not the stub.**

Absentee ballots mailed and issued at the Absentee Polling Place shall be stamped prior to mailing.

Ballot used with optical scan tabulators must contain a mark or symbol that, when copied with a photocopier displays in a way to indicate that the ballot has been copied. This can be done with a counterfeit ballot mark which is preprinted on the ballot or printing a colored symbol or character that, when copied, shows up as a black marking instead of gray-green, colored or bold mark. A stamp on a predetermined area of the ballot also works for this.

**34-902. County commissioners to provide sufficient ballots and ballot boxes for each polling place at all elections.**

The board of county commissioners shall authorize that a suitable number of ballots be printed for each polling place. The county clerk shall cause such ballots to be printed upon receiving final instructions from the secretary of state, and the cost shall be paid from the county treasury. The board of county commissioners shall authorize the printing of ballots in the same manner for special elections when such special election is ordered by the governor or provided by law.

The board of county commissioners shall also provide a suitable number of ballot boxes for each polling place within the county, and shall have complete authority to determine the specifications for such ballot boxes.

**History:** S.L. 1970, Ch. 140; S.L. 1975, Ch. 174; S.L. 1979, Ch. 309; S.L. 2011, Ch. 11

**NOTE 34-902:** The County Commissioners are to authorize the number of ballots for each election conducted by the County Clerk, as well as the number of ballot boxes. This includes consolidated elections. This authorization should be done prior to each election.

It is imperative that enough ballots of each type are printed and available for the election. If a precinct runs out of ballots, the clerk can authorize printing of more ballots using a photocopier. If that happens, the poll workers are to document the fact and the additional (photocopied) ballots will need to be counted by hand and the totals merged with the machine totals for reporting.

**34-903. Secretary of state to prescribe form and contents of all ballots and related documents.** (1) The secretary of state shall, in a manner consistent with the election laws of this state, prescribe the form for all ballots, absentee ballots, diagrams, sample ballots, ballot labels, voting machine labels or booklets, certificates, notices, declarations of candidacy, affidavits of all types, lists, applications, poll books, tally sheets, registers, rosters, statements and abstracts if required by the election laws of this state.

(2) The secretary of state shall prescribe the arrangement of the matter to be printed on each kind of ballot and label, including:

- (a) The placement and listing of all offices, candidates and issues upon which voting is statewide, which shall be uniform throughout the state.
- (b) The listing of all other candidates required to file with him, and the order of listing all offices and issues upon which voting is not statewide.

(3) The names of candidates for legislative or special district offices shall be printed only on the ballots and ballot labels furnished to voters of such district.

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(4) The names of candidates which appear on election ballots for federal, state, county and city offices shall be rotated in the manner determined by the secretary of state. The order of candidates for office in other elections shall be determined by applying the first letter of each candidate's last name to a random alphabet selected prior to each election by the secretary of state.

(5) No candidate's name may appear on a ballot for more than one (1) partisan office or one (1) judicial office, except that a candidate for precinct committeeman may seek one (1) additional office upon the same ballot. The provisions of this subsection shall not apply to the election of electors of president and vice-president of the United States.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 189; S.L. 1987, Ch. 313; S.L. 2011, Ch. 285; S. L. 2012, Ch. 211; S.L. 2015, Ch. 282

**NOTE 34-903:** Directs the Secretary of State to prescribe ballots, related materials and election forms. This include the order of offices and issues that are to appear on the ballot.

Requires candidate names for federal, state, legislative district, judicial, county and city offices be rotated. The Secretary of State will provide by directive how the rotation shall occur, so each candidates name appears on top for an equal number voters. The order of other candidates is to be printed by applying a random alphabet to the last name of the candidates for each office. The random alphabet is generated by the Secretary of State

Prohibits a candidate from having their name appear on the ballot for more than one office, except a candidate for precinct committeeman, who may seek one additional office.

**34-903A. Name on ballot.** Should it appear to the secretary of state or county clerk that a person has filed as a candidate and that such person has changed their name and has changed their name to words that convey or attempt to convey a political message, the secretary of state or county clerk shall make an inquiry to determine: (i) if such person has changed their name; and (ii) if such name contains words that convey a political message to voters on the ballot; and (iii) if an explanation on the ballot would clarify the ballot and would assist in eliminating voter confusion. If the secretary of state or county clerk finds affirmatively that all three (3) criteria have been met, the secretary of state or county clerk shall be required to note on the ballot immediately following the name that appears to be a political proposition the following statement in parentheses: ( A person, formerly known as .....), inserting in the blank within the parentheses the name by which the candidate who changed their name was formerly known.

**History:** S.L. 2008, Ch. 408

**NOTE 34-903A:** The name of any candidate on the ballot cannot contain a political message. The purpose of the ballot is to identify who the candidates are, not their ideas or platform.

**34-904. Primary election ballots.** (1) There shall be a separate primary election ballot for each political party upon which its ticket shall be printed; however, a county may use a separate ballot for the office of precinct committeeman. All candidates who have filed their declarations of candidacy and are subsequently certified shall be listed under the proper office titles on their political party ticket. The secretary of state shall design the primary election ballot to allow for write-in candidates under each office title.

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

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

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 189; S.L. 1972, Ch. 130; S.L. 1983, Ch. 213; S.L. 2001, Ch. 272; S.L. 2011, Ch. 319; S.L. 2012, Ch. 57

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**NOTE 34-904:** The Secretary of State will design the primary election ballot and certify the candidates for federal, statewide, judicial and legislative district offices.

Requires the design of the primary ballot have a space for write-ins.

The Secretary of State will certify that no primary ballot is necessary for a party that in essence fields few, if any, candidates and there is no more than one candidate in any of the partisan races (this allows third party candidates to be listed on the general election ballot only).

**34-904A. Eligibility to vote in primary elections.** (1) Except as provided in subsection (2) of this section, an elector who has designated a party affiliation shall be allowed to vote only in the primary or presidential primary election of the political party for which such an elector is so registered.

(2) A political party qualified to participate in elections pursuant to section 34-501, *Idaho Code*, may, no later than the last Tuesday in November prior to a primary or presidential primary election, notify the secretary of state in writing that the political party elects to allow, in addition to those electors who have registered with that political party, any of the following to vote in such party's primary or presidential primary election:

(a) Electors designated as “**unaffiliated**”;

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

(3) In the event that more than one (1) political party allows “**unaffiliated**” electors to vote in their party's primary or presidential primary election, an “**unaffiliated**” elector shall designate which political party's primary or presidential primary election the elector chooses to vote in by declaring such designation to the poll worker or other appropriate election personnel, who shall then record in the poll book the elector's choice. The county clerk shall record such choice as part of the elector's voting history within the voter registration system as provided for in section 34-437A, *Idaho Code*.

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

(5) An “**unaffiliated**” elector having declared such designation as provided for in subsection (3) or (4) of this section shall not be permitted to vote in the primary or presidential primary election of any other party held on that primary or presidential primary election date.

(6) If an “**unaffiliated**” elector does not declare a choice of political party's primary or presidential primary election ballot, the elector shall not be permitted to vote in any political party's primary or presidential primary election but shall receive a nonpartisan ballot when such a ballot is available.

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

Provided that all other provisions of this act are complied with, nothing in this section shall be construed to prohibit an elector designated as “**unaffiliated**” from voting in the primary or presidential primary election of a different party held in subsequent years. Notwithstanding any other provision of this act, if a political party allows “**unaffiliated**” electors to vote in that political party's primary or presidential primary election pursuant to this section, a vote by an “**unaffiliated**” elector in such primary or presidential primary election shall not change or affect the elector's “**unaffiliated**” designation.

**History:** S.L. 2011, Ch. 319; S.L. 2015, Ch. 292

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**NOTE 34-904A:** This allows the individual parties the ability to determine whether or not their primary election is an open or closed primary. The default is a closed primary election which requires an elector to be affiliated with the party in order to vote in that political party's primary or presidential primary election. However, each political party has the option of opening their primary or presidential primary election to voters of other political parties and/or those electors designated as unaffiliated.

The chairman of each political party is to notify the Secretary of State by the last Tuesday in November before the primary or presidential primary of its intent to open its primary or presidential primary election to electors who are unaffiliated and/or electors registered with other political parties.

This does not prohibit a voter who is designated as unaffiliated from affiliating on Election Day with one of the political parties. An elector affiliated with a party cannot change his or her party affiliation on election day in order to vote in a party's primary election.

**34-905. Nonpartisan ballots for election of justices of supreme court and district judges.** There shall be a single nonpartisan ballot for the election of justices of the supreme court and district judges. The names of all candidates for each office shall be listed under the proper office title by the secretary of state. A similar ballot shall be prepared for any general election, whenever it shall be necessary to conduct an election for judicial office.

The ballot for each judicial office shall contain the words: "**To succeed (Judge, Justice) ....**," inserting the name of the or of each incumbent candidate for re-election, or retiring judge or justices as the case may be, whose successor is to be elected in that year followed by the words: "**Vote for One**," followed by the names of the candidates for that particular office.

**History:** S.L. 1970, Ch. 140; S.L. 1971, 1st E.S., Ch. 9

**NOTE 34-905:** Requires a separate nonpartisan ballot for judicial offices. The nonpartisan judicial ballot can be printed on an optical scan ballot that is used for a primary election in a section labeled as such on the ballot.

The Secretary of State will design the judicial ballot and certify supreme, appellate and district court judges to the County Clerk. Magistrate judges do not appear in this ballot but are elected in the general election pursuant to I.C. 1-2220.

**34-905A. Nonpartisan ballots for election of highway district commissioners — Plurality required for election.** There shall be a single nonpartisan ballot for the election of highway district commissioners in each highway district. The ballot shall designate the highway district commissioners subdistrict and the names of all candidates for that office shall be listed thereon. The ballot shall also contain the words: "**Vote for One**," followed by the names of the candidates for the office. The candidate with the most votes shall be declared the successful candidate.

**History:** S.L. 1972, Ch. 345

**34-906. Ballots for general elections.** There shall be a single general election ballot on which the complete ticket of each political party shall be printed. Each political party ticket shall include that party's nominee for each particular office. The secretary of state shall design the general election ballot to allow for write-in candidates under each office title.

The office titles shall be listed in order beginning with the highest federal office. The secretary of state has the discretion and authority to arrange the above classifications of offices as provided by law.

At any general election at which the electors are to vote upon constitutional amendments or other issues, the secretary of state shall provide separate general election ballot forms on which such amendments and issues shall be printed.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 189; S.L. 1977, Ch. 12

**NOTE 34-906:** The Secretary of State will design the general election ballot and certify candidates for federal, statewide and district offices. The party affiliation of each candidate nominated at the primary election shall be indicated by the candidate's name on the ballot.

Requires a separate constitutional amendment ballot and a separate issues (initiative or referendum) ballot for paper ballot counties. These may be included on the optical scan ballot but must be labeled as such.

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**34-907.** [Repealed - S.L. 2002, Ch. 1]

**34-907A.** [Repealed - S.L. 2007, Ch. 202]

**34-907B.** [Repealed - S.L. 2007, Ch. 202]

**34-908. Each ballot to carry official election ballot identification on outside — Marking of ballot by voter.** (1)

Every ballot used at any primary, general or special election shall be marked on the outside with the official election ballot identification before it is given to the voter. At this time the election official distributing the ballots shall give the voter instructions in regard to folding the ballot after he has voted.

(2) The voter shall mark his ballot with a cross (X) or other mark sufficient to show his intent in the place provided after the name of the candidate for whom he intends to vote for each office.

(3) If a person votes by writing the name of a candidate on the ballot, such act shall constitute a vote for the person's name who appears without the necessity of placing a mark after the name written on the ballot, unless such a mark is required by a vote tally system.

**History:** S.L. 1970, Ch. 140; S.L. 1988, Ch. 293; S.L. 2013, Ch. 285

**NOTE 34-908:** Every ballot must be marked with the official election ballot identification before it is given or mailed to the voter.

The voter must mark the ballot sufficient to show his intent. See the Ballot Inspection Process Directive and What Constitutes a Vote in Section II on pages J-29 - J-35.

Unless required by a vote tally system, i.e. optical scan, an elector does not have to place a mark after a write-in for the write-in to be counted as a vote. The surname written in the designated area is sufficient. Spelling does not have to be exact in order to be counted.

**34-909. General election sample ballots forwarded to counties by secretary of state.** The secretary of state, not later than September 7, shall prepare the necessary general election sample ballots for the various counties and state and district offices on the sample ballots, and by not later than the tenth day prior to the general election shall certify the names of candidates who have been appointed by central committees to fill vacancies as provided by section 34-715, *Idaho Code*.

**History:** S.L. 1970, Ch. 140; S.L. 1976, Ch. 60; S.L. 1984, Ch. 131; S.L. 1985, Ch. 42

**NOTE 34-909:** Not later than September 7th, the Secretary of State shall forward the general election sample ballots to the County Clerks.

Not later than the 10th day prior to the general election is the last day for Secretary of State to certify vacancy candidates. If a vacancy is not filled until after ballots are printed, the County Clerk or poll workers will need to write the name of the person appointed to fill the vacancy on the ballot.

**34-910. Duty of county clerk to furnish sufficient ballots to each voting precinct — Record of number of ballots printed and furnished.** (1) It shall be the duty of the county clerk to furnish and cause to be delivered a sufficient number of election ballots to the judges of elections of each voting precinct. The ballots shall be delivered to the polling place within the precinct on or before the opening of the polls for the election together with the official election ballot identification in sealed packages. Upon receipt of the ballots and supplies, the chief judge of elections or other designated judge must return a written receipt to the county clerk.

(2) The county clerk shall keep a record of the number of ballots printed and furnished to each polling place within the county and preserve the same for one (1) year.

**History:** S.L. 1970, Ch. 140; S.L. 2011, Ch. 285; S.L. 2013, Ch. 285

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**NOTE 34-910:** The County Clerk must furnish sufficient number of election ballots. You should check the turnout from previous elections and the apparent campaign activity around the coming election in determining how many ballots you should order. This gets difficult for primary elections in trying to determine how many people will request a ballot for each party – especially with the ability of unaffiliated voters to register with a party on election day and vote in that party’s primary. Remember that Election Day Registration will affect your figures.

The County Clerk must keep a record for one year of the number of ballots printed and furnished to each polling place. This information is recorded on the ballot accounted page that is sent to each polling place.

**34-911. County clerk to prepare full instructions for the guidance of voters at elections.** The county clerk shall prepare full instructions for the guidance of voters at such elections, as to obtaining ballots, as to the manner of marking them, and as to obtaining new ballots in place of those spoiled, and provide sample ballots. The form and manner of display of the above mentioned instructions shall be prescribed by the secretary of state and be uniform throughout the state.

**History:** S.L. 1970, Ch. 140

**NOTE 34-911:** Requires that a “Card of Instructions” be posted at the polling place. This form describes the voting process and is designed by the Secretary of State.

**34-912. Procedure for correction of ballots when vacancy occurs after printing — Notice.** When any vacancy occurs after the printing of the ballots and is filled as provided by law, the County Clerk shall thereupon have printed a sufficient number of stickers containing the name of the candidate designated to fill the vacancy and shall deliver them to the judges of elections of the precincts interested therein.

The distributing clerk shall affix such stickers on the ballot before it is given to the elector. The sticker shall be placed over the name of the previous candidate. If the vacancy occurs after the deadline for filling the same, the distributing clerk shall cross the name of such candidate off the ballot and no votes shall be cast for the candidate. The County Clerk shall notify the precincts of this authorization as soon as a vacancy occurs.

**History:** S.L. 1970, Ch. 140

**NOTE 34-912:** Requires that a sticker be placed over the name of a candidate when a vacancy occurs and another is appointed to fill the vacancy. This procedure is primarily for paper ballots, however, approved stickers can be used by the County Clerk in optical scan counties. When using stickers on optical scan ballots, poll workers must be instructed to affix the stickers completely so the stickers do not curl and get peeled off the ballot by the scanner/tabulator.

**34-913, 34-914. [Repealed - S.L. 1970, Ch. 140]**

## Chapter 10: Absentee Voting

**34-1001. Voting by absentee ballot authorized.** Any registered elector of the state of Idaho may vote at any election by absentee ballot as herein provided.

**History:** S.L. 1970, Ch. 140

### **34-1002. Application for absentee ballot**

(1) Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, the elector's home address, county, and address to which such ballot shall be forwarded.

(2) In order to provide the appropriate primary election ballot to electors, in the event a political party elects to allow unaffiliated electors to vote in that party's primary election pursuant to section 34-904A, *Idaho Code*, the elector shall designate, as part of the written application for a ballot for primary elections, the elector's party affiliation or designation as "**unaffiliated**." The application shall contain checkoff boxes for "**unaffiliated**" electors by which such electors shall indicate for which party's primary ballot the "**unaffiliated**" elector chooses to vote. Provided however, that no political party's primary election ballot shall be provided to an "**unaffiliated**" elector for a political party that has not elected to allow "**unaffiliated**" electors to vote in that political party's primary election pursuant to section 34-904A, *Idaho Code*. If an "**unaffiliated**" elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot.

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

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

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

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

(7) The application for an absent elector's ballot shall be signed personally by the applicant. The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the eleventh day before the election. An application for in-person absentee voting at the absent elector's polling place described in section 34-1006, *Idaho Code*, shall be received by the county clerk not later than 5:00 p.m. on the Friday before the election. Application for an absentee ballot may be made by using a facsimile machine or other electronic transmission. In the event a registered elector is unable to vote in person at the elector's designated polling place on the day of election because of an emergency situation that rendered the elector physically unable, the elector may nevertheless apply for an absent elector's ballot by notifying the county clerk within ninety-six (96) hours prior to the closing of the polls. No person may, however, be entitled to vote under an emergency situation unless the situation claimed rendered the elector physically unable to vote at the elector's designated polling place within ninety-six (96) hours prior to the closing of the polls.

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

(9) The county clerk shall, not later than seventy-five (75) days after the date of each general election, submit a report to the secretary of state containing information concerning absentee voters as required by federal law.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 157; S.L. 1973, Ch. 304; S.L. 1976, Ch. 353; S.L. 1987, Ch. 167; S.L. 1994, Ch. 122; S.L. 1995, Ch. 215; S.L. 2002, Ch. 236; S.L. 2003, Ch. 48; S.L. 2010, Ch. 332; S.L. 2011, Ch. 319; S.L. 2013, Ch. 135; S.L. 2016, Ch. 137

## IDAHO CODE: TITLE 34, CHAPTER 10

**NOTE 34-1002:** Allows for an application for an absent elector's ballot to be made using a facsimile machine or e-mail if the request is signed, scanned and attached to an email. Because the application must be personally signed, a spouse or parent cannot apply for an absentee ballot for other family members.

Provides for an emergency situation which occurred within 96 hours of the polls closing and rendered the elector physically unable to appear at the designated polling place to apply for an absentee ballot to be delivered on the day of the election. The event which rendered the elector unable to go to the polls on election day must occur within the 96 hour window. It is not available for an elector who just didn't get around to voting or requesting an absentee ballot.

Federal Post Card Application (FPCA) is considered as a request for an absent elector's ballot through the next regularly scheduled general election (i.e. 1 year).

The County Clerk is required by federal law to keep a list of all absentee applications, manner and time of delivery to and receipt of returned ballot for 22 months. However, 34-217 Idaho Code says they must be kept for 2 years. See the Federal Law on page K-13 under Miscellaneous.

Federal law requires the reporting of the number of absentee ballots sent to uniform service and overseas citizens and the number returned and cast in the election.

### **Primary Election:**

Electors requesting an absentee ballot will indicate on the application their party affiliation or designation as unaffiliated. In the event one or more parties open their party primary to voters not registered with the party, voters may request on the application the party's ballot they desire to receive. If the parties allow only members of their party to participate in their primary elections, voters will receive the ballot for the party in which they are registered and unaffiliated voters will receive only the non-partisan ballot. Electors registered with a party are not allowed to change their party affiliation on the absentee ballot request form.

### **34-1002A. [Repealed - S.L. 1994, Ch. 122]**

**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 subsection (2)(b) of this section, 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 later than forty-five (45) days before that election to all electors who are entitled to vote by absentee ballot.

## IDAHO CODE: TITLE 34, CHAPTER 10

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

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

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

(7) An elector physically unable to mark such elector's own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of the elector's own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. When such ballot is marked by an election officer, the witnesses on hand shall be allowed to observe such marking. No county clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

**History:** S.L. 1970, Ch. 140; S.L. 1973, Ch. 304; S.L. 1975, Ch. 66; S.L. 1984, Ch. 131; S.L. 1993, Ch. 100; S.L. 1994, Ch. 122; S.L. 1996, Ch. 74; S.L. 2010, Ch. 332; S.L. 2011, Ch. 11; S.L. 2011, Ch. 319

**NOTE 34-1003:** A ballot may be mailed to a voter within or outside the county. Blank ballots may also be faxed or emailed to UOCAVA voters. However, voted ballots are to be returned by mail or hand delivered unless an emergency is declared by the Secretary of State pursuant to 34-201, *Idaho Code*.

When sending a ballot electronically, the issuing clerk is to scan and e-mail or fax a copy of the ballot to the address given by the elector. Instructions for marking and returning the ballot are to be included along with a waiver of the elector's right to confidentiality of the ballot. Although efforts will be made to maintain voter confidentiality, it cannot be guaranteed since the ballots will need to be duplicated and the number of duplicated ballots may be very limited. The instructions need to contain information about signing and placing the absentee voter's affidavit on the outside of the return envelope. Voted ballots must be returned by mail. They cannot be returned electronically unless an emergency is declared by the Secretary of State.

When the County Clerk is on the ballot, he/she should not deliver absentee ballots. A candidate or a spouse of a candidate cannot deliver ballots or be a witness.

An elector physically unable to mark his own ballot may receive assistance in marking his ballot from a person of his own choosing. The assistant will vote the desires of the elector and will not do anything that may be interpreted as influencing the vote of the elector in any manner.

### **Primary Elections:**

Electors requesting an absentee ballot will be sent the ballot for the party in which they are registered along with the non-partisan ballot. In the event the parties open their primary to those not registered with the party, the elector will be sent the party's ballot requested on the application.

## IDAHO CODE: TITLE 34, CHAPTER 10

**34-1004. Marking and folding of absentee ballot — Affidavit.** Upon receipt of the absent elector's ballot the elector shall thereupon mark and fold the ballot so as to conceal the marking, deposit it in the ballot envelope and seal the envelope securely. In the event an election requires a perforated ballot, the unvoted portion must be deposited in the unvoted ballot envelope and sealed. The ballot envelopes must then be deposited in the return envelope and sealed securely.

The elector shall then execute an affidavit on the back of the return envelope in the form prescribed, provided however, that such affidavit need not be notarized.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1004:** The elector's signature on the return envelope is mandatory. Recent court rulings make it clear that unsigned return envelopes are invalid and the ballots contained therein are not to be counted.

All absentee ballots, including ballots cast at the absentee polling place, shall be placed in the affidavit envelope.

**34-1005. Return of absentee ballot.** The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.

Upon receipt of an absent elector's ballot the county clerk of the county wherein such elector resides shall verify the authenticity of the affidavit and shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office and record the information pursuant to section 34-1011, *Idaho Code*. He shall safely keep and preserve all absent electors' ballots unopened until the time prescribed for delivery to the polls or to the central count ballot processing center.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 157; S.L. 1995, Ch. 215; S.L. 2007, Ch. 202; S.L. 2011, Ch. 285

**NOTE 34-1005:** Verification of the authenticity of an affidavit on the return envelope of an absentee ballot is accomplished by checking the signature on the return envelope with the signature on the absent elector's registration application in the voter registration data base.

If the affidavit's authenticity cannot be verified, the clerk notes this fact on the ballot envelope.

The date and time the ballot was received in the office of the issuing officer must be written or stamped on the return absentee envelope.

Absentee ballots that are counted by a central count tabulator may be removed from the affidavit and secrecy envelopes the day before election day in order for the ballots to be stacked and weighted so the fold can relax. This allows ballots to feed through the scanners more efficiently and with fewer misreads. Security measures must be in place to ensure the ballots are not tampered with.

**34-1006. County clerks shall provide one or more "absent electors' voting place."** Each county clerk shall provide one (1) or more "**absent electors' polling place(s)**" as determined necessary by each county. Each polling place shall be provided with voting booths and other necessary supplies as provided by law. Electioneering is prohibited at an "**absent electors' polling place**" as provided in section 18-2318, *Idaho Code*.

**History:** S.L. 1970, Ch. 140; S.L. 1994, Ch. 21; S.L. 1998, Ch. 163

**NOTE 34-1006:** Provides for an absent electors polling place and prohibits electioneering at the absentee polling place at the clerk's office. This "polling place" must allow the elector to vote in secret and without outside interference. An accessible voting device is also to be set up and available for those with disabilities.

County officials working in and around the absentee polling place should be advised of the electioneering prohibition in advance of absentee voting at the clerk's office.

## IDAHO CODE: TITLE 34, CHAPTER 10

**34-1007. Transmission of absentee ballots to polls.** On receipt of such absent elector's ballot or ballots, the officer receiving them shall forthwith enclose the same, unopened in a carrier envelope endorsed with the name and official title of such officer and the words: "**absent electors' ballot to be opened only at the polls.**" He shall hold the same until the delivery of the official ballots to the judges of election of the precinct in which the elector resides and shall deliver the ballot or ballots to the judges with such official ballots.

In those counties which count ballots at a central location, absentee ballots that are received may, in the discretion of the county clerk, be retained in a secure place in the clerk's office and such ballot shall be added to the precinct returns at the time of ballot tabulation. The clerk shall deliver to the polls a list of those absentee ballots received to record in the official poll book that the elector has voted.

**History:** S.L. 1970, Ch. 140; S.L. 2002, Ch. 236; S.L. 2007, Ch. 202

**NOTE 34-1007:** This procedure is utilized if no absentee precinct has been established pursuant to Section 34-301, *Idaho Code*.

Ballots received on election day in a county, where ballots are counted centrally, do not have to be delivered to the polling place to be counted. Ballots retained at the clerk's office on election day are added to precinct ballots for tabulation after the polls close.

**34-1008. Deposit of absentee ballots.** Between the opening and closing of the polls on such election day the judges of election of such precinct shall open the carrier envelope only, announce the absent elector's name, and in the event they find such applicant to be a duly registered elector of the precinct and that he has not heretofore voted at the election, they shall open the return envelope and remove the ballot envelopes and deposit the same in the proper ballot boxes and cause the absent elector's name to be entered on the poll books the same as though he had been present and voted in person. The ballot envelope shall not be opened until the ballots are counted.

**History:** S.L. 1970, Ch. 140; S.L. 1995, Ch. 215

**34-1009. Challenging absentee elector's vote.** The vote of any absent elector may be challenged in the same manner as other votes are challenged and the receiving judges shall have power and authority to determine the legality of such ballot. If the challenge be sustained, or if the receiving judges determine, that the affidavit accompanying the absent elector's ballot is insufficient, or that the elector is not a qualified registered elector the envelope containing the ballot of such elector shall not be opened and the judges shall endorse on the back of the envelope the reason therefor. If an absent elector's envelope contains more than one (1) marked ballot of any one (1) kind, none of such ballots shall be counted and the judges shall make notations on the back of the ballots the reason therefor. Judges of election shall certify in their returns the number of absent electors' ballots cast and counted and the number of such ballots rejected.

**History:** S.L. 1970, Ch. 140; S.L. 2004, Ch. 248

**NOTE 34-1009:** Pursuant to 34-1005, *Idaho Code*, the County Clerk verifies the authenticity of the affidavit prior to delivery to the polls. The clerk must note on the outside of the envelope when the affidavit is not sufficient. The reason the ballot is being rejected is written on the ballot envelope and the envelope will be deposited into the spoiled ballot container.

If an affidavit envelope contains the ballots of more than one voter, none of the ballots are to be counted and they are to be placed in the spoiled ballot container.

**34-1010. Rejection of defective ballots.** All absent electors' identification envelopes, ballot stubs and absent electors' ballots rejected by the judges in accordance with the provisions of this act shall be returned to the county clerk. All absent electors' ballots received by the county clerk after 8:00 p.m. on the day of the general, primary or special election, together with the rejected absent electors' ballots returned by the judges of election as provided in this section, shall remain in the sealed identification envelopes and be handled in the manner provided for other spoiled ballots.

**History:** S.L. 1970, Ch. 140; S.L. 1973, Ch. 304

**NOTE 34-1010:** The reason for all rejected ballots must be noted on the back of the return envelope. Rejected absentee ballots remain sealed in their return envelope.

## IDAHO CODE: TITLE 34, CHAPTER 10

**34-1011. County clerk's record of applications for absent elector's ballots.** The county clerk shall keep a record in his office containing a list of names and precinct numbers of electors making application for absent elector's ballots, together with the date on which such application was made, the date on which such absent elector's ballot was returned. If an absent elector's ballot is not returned or if it be rejected and not counted, such fact shall be noted on the record. Such record shall be open to public inspection under proper regulations.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1011:** Record of absentee applications must be kept as well as when the ballot was returned and is open to public inspection.

The UOCAVA law requires the state or local jurisdiction to provide, at no cost to the voter, the ability for an absentee voter to find out if the voter's ballot has been received by the county. This lookup feature is on the Secretary of State's Idaho Votes web site.

### 34-1012 - 34-1027. [Repealed - S.L. 1970, Ch. 140]

**34-1012. Alternative procedures for absentee voting — Early voting.** (1) Those counties that utilize absentee voting facilities that have access to the Idaho statewide voter registration system and count ballots at a central location or utilize a polling location based tabulation system may elect to conduct “**early voting**” according to the provisions of this section. For those counties that elect to do “**early voting**,” early voting shall begin on or before the third Monday before the election and end at 5:00 p.m. on the Friday before the election. Primary election ballots shall be issued pursuant to section 34-1002(2), *Idaho Code*.

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

(3) The election official shall examine the records to ascertain whether or not such 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.

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

(5) The elector shall then be given the appropriate ballots containing the official election ballot identification pursuant to section 34-901, *Idaho Code*, and shall be given folding instructions for such ballots, if appropriate.

(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 or herself to the election official at the ballot box and state his or her name and address. The elector shall then deposit the ballot in the ballot box or hand it to the election official, who shall deposit it. The election official shall then record that the elector has voted and proclaim the same in an audible voice.

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

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

**History:** S.L. 2013, Ch. 132; S.L. 2016, Ch. 138

**NOTE 34-1012:** An alternative way of in-person absentee voting is a process referred to as “early voting”. In order for a county to utilize Early Voting, they must:

1. Begin Early Voting on or before the third Monday before the election and end at 5 pm on the Friday before the election.
2. The Early Voting location must have access to the Idaho Statewide Voter Registration System to ascertain if the elector is registered and lawfully entitled to vote as requested.
3. The elector must sign the Early Voting Poll Book page. The voter then votes in the same manner as at a polling place on Election Day. Voted ballot secrecy and affidavit envelopes are not used in Early Voting. Ballots are deposited in a secured ballot box just like at the polls on election day.

Counties can use a combination of in-person absentee voting using the ballot envelopes and early voting to accommodate those who want to vote prior to the time early voting begins.

Electioneering is also prohibited at the Early Voting Polling Place.

## IDAHO CODE: TITLE 34, CHAPTER 10

**34-1013. Early voting ballot security.** A detailed plan for the security of ballots for early voting shall be submitted to the secretary of state for approval no later than thirty (30) days before early voting begins. At a minimum, the following procedures must be followed:

- (1) The ballot boxes used for casting early ballots shall remain locked and secured with a numbered seal until the time of tabulation on election day.
- (2) A record shall be maintained consisting of the number of ballots issued by date and seal number of each ballot box used for early voting.
- (3) Arrangements shall be made to have a deputy sheriff, police officer or bonded private security firm secure the location.
- (4) The actual counting of ballots shall not begin until election day, and the results shall not be released to the public until all voting places in the state have closed.

**History:** S.L. 2013, Ch. 132

**NOTE 34-1013:** Counties that decides to utilize Early Voting as outlined in 34-1012, *Idaho Code*, must provide a detailed security plan to the Secretary of State's Office no later than 30 days before Early Voting begins.

One security plan can be submitted at the first of the year that can be approved and used for all elections in that calendar year. A separate plan only needs to be submitted and approved if it has changed from the prior approved plan.

At a minimum, the ballot boxes used for Early Voting are not to be opened until Election Day for tabulation, a record of the number of ballots issued by date and the seal number for each box must be maintained, a deputy sheriff, police officer or bonded private security firm must secure the location of the ballot boxes and counting of ballots will not begin prior to Election Day.

Early voting ballots are not in an affidavit envelope but are simply deposited in a ballot box. This requires additional security measures to provide the public with confidence that the ballots are not altered or are not even available for a poll worker or anyone else has tampered with them prior to being counted.



# Chapter 11: Conduct Of Elections

**34-1101. Opening and closing of polls.** (1) At all elections conducted pursuant to title 34, *Idaho Code*, the polls shall be opened at 8:00 A.M. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 P.M. of the same day, whichever comes first. The county clerk, at his option, however, may open the polls in his county at 7:00 A.M. for a primary or general election.

(2) Upon opening the polls, one (1) of the judges shall make the proclamation of the same and thirty (30) minutes before closing the polls a proclamation shall be made in the same manner. Any elector who is in line at 8:00 P.M. shall be allowed to vote notwithstanding the pronouncement that the polls are closed.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 349; S.L. 1973, Ch. 304; S.L. 1993, Ch. 313

**NOTE 34-1101:** The polls are to be open at 8:00 a.m. and remain open until 8:00 p.m. on election day. Poll workers should report to work at the polling place one hour prior to that (7:00 a.m.) to set up the polling place and be ready for the election.

With the availability of election day registration, an elector not on the election record poll book may appear at the polls to register and vote. Therefore, the polls must be open until 8:00 p.m. Any elector in line at 8:00 p.m. must be allowed to register, if necessary, and vote.

All polling places in the same county should open at the same time.

**34-1102. Changing polling place — Proclamation and notice.** Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after assembling and before receiving any vote, may adjourn to the nearest convenient place for holding the election, and at such adjourned place forthwith proceed with the election and the county clerk shall be notified of the change.

Upon adjourning any election, the judges shall cause proclamation thereof to be made, and shall post a notice upon the place where the adjournment was made from notifying electors of the change of polling place.

**History:** S.L. 1970, Ch. 140

**34-1103. Opening ballot boxes.** (1) In the presence of bystanders the judges of elections shall break the sealed packages of election ballots, and other supplies.

(2) Before receiving any ballots the judges shall open and exhibit, close and lock the ballot boxes, and thereafter they shall not be removed from the polling place until all ballots are counted. They shall not be opened until the polls are closed unless the precinct is using a duplicate set of ballot boxes.

**History:** S.L. 1970, Ch. 140; S.L. 2013, Ch 285

**NOTE 34-1103:** After the ballot box has been locked or sealed and ballots have been deposited, the ballot box is not to be opened for the retrieval of ballots unless the County Clerk has approved an early pick-up in a voting device county. In paper ballot counties, there must be duplicate ballot boxes if counting is to begin before the polls close. In such case the ballot box would be opened only in the counting room. The ballots would be removed for counting, and the ballot box resealed then returned to the voting area.

**34-1104. Judges may administer oaths — Challenge of voters.** Any judge may administer and certify any oath required to be administered during the progress of an election or challenge any elector.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1104:** The oath referred to in this section is the Challenged Elector's Oath discussed in Section [34-1111](#) and the chief judge issuing the oath to the other election officials.

## IDAHO CODE: TITLE 34, CHAPTER 11

**34-1105. Duties of constable.** The judges of election may appoint some capable person to act as election constable during the election, and he shall have the power to make arrests for disturbance of the peace, as provided by law for constables, and he shall allow no one within the voting area except those who go to vote, and shall allow but one (1) elector in a compartment at one(1) time. He shall remain and keep order at the polling place until all of the votes are tallied.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1105:** The role of the constable has changed over the years. The constable is responsible for maintaining order in the polling place but should do that through contacting the County Clerk of law enforcement officials for actual enforcement of the laws.

### **34-1106. Signing combination election record and poll book — Delivery of ballot to elector**

(1) An elector desiring to vote shall state his name and address to the judge or clerk in charge of the combination election record and poll book.

(2) Before receiving his ballot, each elector shall sign his name in the combination election record and poll book following his name therein and show a valid photo identification as provided for in section [34-1113](#), *Idaho Code*, or personal identification affidavit as provided for in section [34-1114](#), *Idaho Code*.

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

(4) If the residence address of a person contained in the combination election record and poll book is incorrectly given due to an error in preparation of the combination election record and poll book, the judge shall ascertain the correct address and make the necessary correction.

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

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 349; S.L. 2010, Ch. 246; S.L. 2013, Ch. 285

**NOTE 34-1106:** The poll book clerk is to add newly registered election day registration voters and their addresses to the poll book on one of the blank pages provided for this purpose. The election board clerk makes a notation "Election Day Registration" in the remarks column prior to the elector signing the poll book.

Federal law requires a first time voter in Idaho who mails in a registration card and the registrant's identification and has not been verified prior to his appearing at the polls, the notation "ID Required Before Voting" will appear in the Remarks column. The registrant shall then provide one of the documents described in [34-410](#), *Idaho Code*, verifying his residence within the precinct before receiving a ballot in a federal election.

Electors are required to provide photo identification at the polls and at the absent electors polling place prior to voting. Approved ID are listed in [34-1113](#), *Idaho Code*. If the elector does not have one of the approved ID's, the elector is allowed to sign a Personal Identification Affidavit prior to voting which is in accordance with [34-1114](#), *Idaho Code*.

Whenever there is a discrepancy between the poll book and what is stated by the voter, the chief judge is to call the County Clerk for direction on how to proceed.

**34-1106A . Electronic poll book authorized.** (1) A county may adopt the use of any electronic poll book that has been certified by the secretary of state for use in this state. A county that opts to use electronic poll books shall notify the secretary of state of that decision.

(2) The secretary of state shall develop and provide to each county that adopts the use of electronic polls books under subsection (1) of this section instructions, directives and advisories regarding the examination, testing and use of the electronic poll books.

**History:** S.L. 2015, Ch. 282

**NOTE 34-1106A:** A county can use electronic poll books that have been certified by the secretary of state as long as the county notifies the secretary of state's office of their decision.

Counties must follow the secretary of state's directives and advisories for examination, testing and use of the electronic poll books.

## IDAHO CODE: TITLE 34, CHAPTER 11

**34-1107. Manner of voting.** On receipt of his ballot the elector shall retire to a vacant voting booth and mark his ballot according to the instructions provided by law.

After marking his ballot, the elector shall present himself to the judge at the ballot box and state his name and residence. The elector shall then deposit his ballot in the proper box or hand his ballot to the election judge, who shall deposit it. The judge shall then record that the elector has voted and proclaim the same in an audible voice.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 129; S.L. 1972, Ch. 349; S.L. 1973, Ch. 304; S.L. 2007, Ch. 202

**NOTE 34-1107:** After marking the ballot, the elector may deposit his ballot into the ballot box or precinct tabulator, or hand it to the election judge who shall deposit the ballot.

**34-1108. Assistance to voter.** (1) If any registered elector is unable, due to physical disability or other handicap, to enter the polling place, he may be handed a ballot outside the polling place but within forty (40) feet thereof by one (1) of the election clerks, and in his presence but in a secret manner, mark and return the same to such election officer who shall proceed as provided by law to record the ballot.

(2) If any registered elector, who is unable by reason of physical disability or other handicap to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be given assistance by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector before leaving the voting compartment or area provided for such purpose. The elector shall then present it to the in the manner provided above.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 349; S.L. 1978, Ch. 37

**NOTE 34-1108:** Polling places are to be accessible to those persons with disabilities, if the building cannot reasonably be made accessible, curbside voting is provided by federal law (The Voting Accessibility for the Elderly and Handicapped Act). Although the federal law allows one person to take the pollbook and ballot to the voter, the Secretary of State requires 2 people to be with the ballots at any given time.

If a voter requires or asks for assistance in marking the ballot, assistance can be rendered in the polling place by any person of the elector's choice. An election judge may assist the elector if chosen.

**34-1109. Spoiled ballots.** No person shall take or remove any ballot from the polling place. If an elector inadvertently or by mistake spoils a ballot, he shall return it folded to the distributing clerk, who shall give him another ballot. The ballot thus returned shall, without examination, be immediately canceled by writing across the back, or outside of the ballot as folded, the words “spoiled ballot, another issued,” and deposit the spoiled ballot in a box provided for that purpose.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1109:** The Help America Vote Act requires any voting system to provide “second chance” voting in the event the voter makes a mistake in marking the ballot. This is accomplished in paper ballot voting by allowing a voter who has made a mistake in marking the ballot to return the mismarked ballot to the poll worker and request another ballot. The original mismarked ballot is then spoiled and another ballot is issued. Instructions are to be given to each voter of what to do in the event a mistake is made.

**34-1110. Officers not to divulge information.** No judge or clerk shall communicate to anyone any information as to the name or number on the registry list of any elector who has not applied for a ballot, or who has not voted at the polling place; and no judge, clerk or other person whomsoever, shall interfere with, or attempt to interfere with, a voter when marking his ballot. No judge, clerk or other person shall, directly or indirectly, attempt to induce any voter to display his ticket after he shall have marked the same, or to make known to any person the name of any candidate for or against whom he may have voted.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1110:** Does not allow for the election judges to respond to inquires by challengers or watchers as to who has not voted. In order for observers to maintain their own record of who has voted, an elector's name shall be called out in an audible voice upon returning their ballot. See Secretary of State Directives on page J-15 - J-17.

## IDAHO CODE: TITLE 34, CHAPTER 11

**34-1111. Challenging voters.** In case any person offering to vote is challenged one (1) of the judges must declare the qualifications of an elector to such person. If the person so challenged then declares himself duly qualified, and the challenge is not withdrawn, one (1) of the judges shall then tender him the elector's oath, as prescribed by the secretary of state. No challenged elector shall have the right to vote until he has subscribed to the elector's oath. Upon a challenged elector's subscribing the elector's oath, he shall be entitled to vote.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1111:** Voter qualifications (found in Judges & Clerks Manual) should be read to an elector whose registration has been challenged. Challenged elector must sign the Elector's Oath before they are allowed to vote. The elector then signs the election record poll book and is then allowed to vote. The county clerk is to follow up with the challenged voter after the election to verify the validity of the elector's registration.

**34-1112. Handbook of elector's qualifications.** The secretary of state shall prepare a handbook which sets forth the qualifications of an elector which shall aid the judges of election to determine whether a person is qualified to vote at the election.

A sufficient number of these handbooks shall be transmitted to each county clerk who shall provide each polling place with a sufficient number of copies.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 349

**NOTE 34-1112:** See Judges & Clerks Manual

**34-1113. Identification at the polls.** All voters shall be required to provide personal identification before voting at the polls or at absent electors polling places as required by section 34-1006, *Idaho Code*. The personal identification that may be presented shall be one (1) of the following:

- (1) An Idaho driver's license or identification card issued by the Idaho transportation department;
- (2) A passport or an identification card, including a photograph, issued by an agency of the United States government;
- (3) A tribal identification card, including a photograph;
- (4) A current student identification card, including a photograph, issued by a high school or an accredited institution of higher education, including a university, college or technical school, located within the state of Idaho; or
- (5) A license to carry concealed weapons issued under section 18-3302, *Idaho Code*, or an enhanced license to carry concealed weapons issued under section 18-3302K, *Idaho Code*.

**History:** S.L. 2010, Ch. 246; S.L. 2017, Ch. 132

**34-1114. Affidavit in lieu of personal identification.** If a voter is not able to present personal identification as required in section 34-1113, *Idaho Code*, the voter may complete an affidavit in lieu of the personal identification. The affidavit shall be on a form prescribed by the secretary of state and shall require the voter to provide the voter's name and address. The voter shall sign the affidavit. Any person who knowingly provides false, erroneous or inaccurate information on such affidavit shall be guilty of a felony.

**History:** S.L. 2010, Ch. 246

## Chapter 12: Canvass Of Votes

**34-1201. Canvass of votes.** (1) When the polls are closed the judges must immediately proceed to count the ballots cast at such election. The counting must be continued without adjournment until completed and the result declared.

(2) If the precinct has duplicate ballot boxes, the counting may begin after five (5) ballots have been cast. At this time, the additional clerks shall close the first ballot box and retire to the counting area and count the ballots. Upon completion of this counting the clerks shall return the ballot box and then proceed to count all of the ballots cast in the second box during this period. This counting shall continue until the polls are closed at which time all election personnel shall complete the counting of the ballots.

(3) The county clerk may designate paper ballots be returned to a central count location for counting by special counting boards. If the paper ballots are to be counted at a central count location, a procedure may be adopted to deliver the voted ballots to the county clerk prior to the closing of the polls. The results of this early count shall not be released to the public until after 8:00 p.m. of election day.

**History:** S.L. 1970, Ch. 140; S.L. 2011, Ch. 285

**NOTE 34-1201:** Provides for counting to begin prior to closing of the polls, if duplicate ballot boxes are used and additional clerks have been appointed. Under no condition can election results for statewide elections be released prior to 8:00 p.m. Pacific Time, when all voting places statewide have closed. Note: Idaho has 2 time zones. However, results for special districts may be released after 8:00 pm when all voting places in the district have closed.

In a paper ballot county when counting starts before polls close, a “watcher” cannot leave the counting room until after the polls close. See Secretary of State Directives, page J-17.

Allows for the County Clerk to designate paper ballots to be counted at a central counting location and ballots may be delivered to the counting center prior to the closing of the polls. The central counting station may be made up of county personnel or of people hired specifically for counting the ballots.

**34-1202. Comparison of poll lists, and ballots — Void ballots.** The counting must commence by comparison of the ballots and the poll lists from the commencement, and a correction of any mistake that may be found therein, until they are found to agree. The ballot box shall be opened and the ballots found therein counted by the judges, unopened and the number of ballots in the box must agree with the number marked in the poll book as having received a ballot, and this number, together with the number of spoiled ballots, must agree with the number of stubs or counterfoils in the books from which the ballots have been taken. If the number of ballots issued does not agree with the number of stubs or counterfoils, the election judges shall have authority to make any decision to correct the situation; but this shall not be construed to allow the judges to void all ballots cast at that polling place.

When duplicate ballot boxes are used in a precinct, the duties herein prescribed shall be done after all of the votes have been tallied.

**History:** S.L. 1970, Ch. 140; S.L. 1995, Ch. 215

**NOTE 34-1202:** After the polls close, the ballot box is opened, and the judge counts the number of ballots in the box. The number must agree with the number of signatures in the poll book plus the spoiled ballots which should coincide with the number of ballot stubs.

If the numbers do not agree, the judges are to attempt to find the discrepancy and correct it or make a notation of where, in their opinion, the difference is, i.e., a fleeing voter (one who received a ballot then decided not to vote and walked out with it), etc.

## IDAHO CODE: TITLE 34, CHAPTER 12

**34-1202A. Void ballot not counted.** At any bond election conducted by the state of Idaho, its agencies, institutions, political subdivisions and municipal and quasi-municipal corporations, any ballot or part of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted. It is hereby declared that any qualified elector casting such ballot or part of a ballot shall be deemed not to have voted at or participated in such bond election and such ballot or part of a ballot shall not be counted in determining the number of qualified electors voting at or participating in such bond election.

**History:** S.L. 1978, Ch. 51

**NOTE 34-1202A:** The outcome of a bond or levy election is determined by the number of votes cast on the ballot question, not in the entire election. This section provides that a void ballot in a bond election is not to be counted in determining the number of qualified electors participating in the bond election. The same applies to those not voting on a particular ballot question. Doing so would, in essence, assign any ballot without a mark in the voting area of the question a vote against the ballot measure, which is not the case.

**34-1203. Counting of ballots — Certificates of judges.** (1) The ballots and polls lists agreeing, the election personnel shall then proceed to tally the votes cast. Under each office title the number of votes for each candidate and such other information required by the secretary of state shall be entered in the tally books together with the total of the above figures in the manner prescribed by the secretary of state. Any ballot or part of a ballot from which it is impossible to determine the elector's choice, shall be void and shall not be counted. When a ballot is sufficiently plain to determine therefrom a part of the voter's intention, it shall be the duty of the judges to count such part.

(2) Following the counting, the judges must transmit a copy of the results to the county clerk.

(3) In no event shall the results of any count be released to the public until all voting places in the state have closed on election day.

(4) The secretary of state shall issue directives or promulgate administrative rules adopting standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in this state.

**History:** S.L. 1970, Ch. 140; S.L. 1981, Ch. 109; S.L. 2003, Ch. 48; S.L. 2016, Ch. 272

**NOTE 34-1203:** Paper ballot jurisdictions - Once the poll book and ballots agree, the votes are tallied using the tally books. If a ballot is partially incomplete or voted wrong, it does not void the entire ballot. That portion of the ballot voted correctly must be counted.

See the Ballot Inspection Process Directive and What Constitutes a Vote beginning on page J-29 under Secretary of State Directives. Following the counting of the ballots at the polls, the results and voted ballots are to be transmitted immediately to the County Clerk.

When transmitting the ballots, make certain that two people accompany the ballots to the Clerk.

**34-1204. Transmission of supplies to county clerk.** After the counting of the votes, the judges of the election shall enclose and seal the combination election record and poll book, tally books, all ballot stubs, unused ballot books, and other supplies in a suitable container and deliver them to the county clerk's office. If the office of the county clerk is closed, the articles shall be delivered to the sheriff or one (1) of his deputies who shall deliver them to the county clerk no later than the day after the election.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 193

**NOTE 34-1204:** After the ballots have been counted, ballots, tally books and the signed copy of the election record poll book are locked into the ballot box for return to the clerk's office on election night. The remaining election supplies are also returned to clerk on election night.

## IDAHO CODE: TITLE 34, CHAPTER 12

**34-1205. County board of canvassers — Meetings.** The county board of commissioners shall be the county board of canvassers and the county clerk shall serve as their secretary for this purpose. The county board of canvassers shall meet within seven (7) days after a primary or presidential primary election and within ten (10) days after a general election for the purpose of canvassing the election returns of all precincts within the county.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 193; S.L. 1975, Ch. 174; S.L. 2012, Ch. 33; S.L. 2015, Ch. 292

**NOTE 34-1205:** Two county commissioners make a quorum, which is enough for the canvass of votes. Commissioners meet within 7 days of a primary or presidential primary and 10 days after a general. It is imperative that this deadline be met in order for the State Board of Canvassers to meet and accomplish their duties.

**34-1206. Board's statement of votes cast.** The board shall examine and make a statement of the total number of votes cast for all candidates or special questions that shall have been voted upon at the election. The statement shall set forth the special questions and the names of the candidates for whom the votes have been cast. It shall also include the total number of votes cast for each candidate for office by precinct or polling location for elections conducted pursuant to chapter 14, title 34, *Idaho Code*, and the total number of affirmative and negative votes cast for any special question by precinct or polling location for elections conducted pursuant to chapter 14, title 34, *Idaho Code*. The board shall certify that such statement is true, subscribe their names thereto, and deliver it to the county clerk.

**History:** S.L. 1970, Ch. 140; S.L. 2012, Ch. 211

**34-1207. Abstracts of returns.** After the canvass of the votes for each office the board shall cause the county clerk to make abstracts of the returns for each candidate which shall then be signed by each member of the board. The abstracts shall be in a form prescribed by the secretary of state and be uniform throughout the state.

The county clerk, by registered mail, shall forward to the secretary of state the abstracts for all candidates for federal, state or district offices.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1207:** County board must meet at the earliest possible time, allowing the clerk to forward abstracts to the Secretary of State in a timely manner. It is recommended that abstracts be sent by federal express or next day mail rather than registered or certified mail which takes longer to be delivered.

**34-1208. Certificates of nomination or election.** Immediately after the primary election canvass the county clerk shall issue certificates of nomination to the political party candidates of each party who receive the highest number of votes for their particular county office, and the candidates so certified shall have their names placed on the general election ballot. On or before the eighth day after the primary election canvass, the county clerk shall issue certificates of election to the precinct committeemen of each political party who receive the highest number of votes in their precinct. Provided that to be elected, a precinct committeeman shall receive a minimum of five (5) votes. In the event no candidate receives the minimum number of votes required to be elected, a vacancy in the office shall exist and shall be filled as otherwise provided by law. The county clerk shall also certify by registered mail the results of the primary election to the secretary of state. The form for such certificate shall be prescribed by the secretary of state and be uniform throughout the state.

**History:** S.L. 1970, Ch. 140; S.L. 1975, Ch. 174; S.L. 1977, Ch. 17; S.L. 1979, Ch. 309; S.L. 1991, Ch. 117; S.L. 2012, Ch. 33

**NOTE 34-1208:** A certificate of nomination is to be prepared and delivered to candidates receiving the most votes in the primary election and who are to go on to represent their political party in the general election.

Precinct committeemen are not nominated but are elected in the primary election. To be elected to the office of precinct committeeman, the candidate must receive a minimum of 5 votes.

Certificates of election to precinct committeemen should be issued immediately after canvass in order that the county central committee can hold their organizational meeting.

If a vacancy exists in the office of precinct committeeman it is filled by appointment by the county central committee. The appointee must be a qualified elector of the precinct.

## IDAHO CODE: TITLE 34, CHAPTER 12

**34-1209. Certificates of election to county candidates after general election.** Immediately after the general election canvass, the county clerk shall issue a certificate of election to the county candidates who received the highest number of votes for that particular office and they shall be considered duly elected to assume the duties of the office for the next ensuing term.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1209:** The Secretary of State's office requires the abstract sheet for county officials for the general election only.

**34-1210. Tie votes in county elections.** In the case of a tie vote between candidates at a primary election or general election, the interested candidates shall appear before the county clerk within two (2) days after the canvass and the tie shall be determined by a toss of a coin.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1210:** Within 2 days of canvass a tie is decided by the flip of a coin.

**34-1211. State board of canvassers — Meetings.** The secretary of state, state controller and state treasurer shall constitute the state board of canvassers. The functions of the board shall be election functions, and the secretary of state shall be chairman of the board. The state board of canvassers shall meet within fifteen (15) days after the primary election and within fifteen (15) days after the general election in the office of the secretary of state for the purpose of canvassing the abstracts of votes cast for all candidates for federal, state and legislative district offices.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 193; S.L. 1974, Ch. 5; S.L. 1994, Ch. 181

**34-1212. Examination and certification of county canvasses by state board.** The board shall examine the abstracts of votes from the county canvasses and make a statement of the total number of votes cast for all federal, state and district candidates or special questions that shall have been voted upon at the election. The statement shall set forth the special questions and the names of the candidates for whom the votes have been cast. It shall also include the total number of votes cast for each candidate for office by county and legislative district, and the total number of affirmative and negative votes cast for any special question by county. The board shall certify that such statement is true, subscribe their names thereto, and deliver it to the secretary of state.

**History:** S.L. 1970, Ch. 140

**34-1213. Certification of canvass of abstracts by board.** After the canvass of the abstracts, the board shall make a statement of the total number of votes cast at any such election for all the candidates for federal, state or district offices, which statement shall show the names of the persons to whom such votes shall have been cast for the particular offices and the total number cast to each, distinguishing the several districts, counties and precincts in which they were given. They shall certify such statement to be correct, and subscribe their names thereto.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1213:** The Secretary of State compiles votes for statewide measures, federal, statewide, and legislative district candidates.

**34-1214. Certificates of nomination or election to federal, state, district or nonpartisan offices after primary.** (1) Immediately after the primary election canvass, the secretary of state shall issue certificates of nomination to the political party candidates of each party who receive the highest number of votes for their particular federal, state or district office. The candidates so certified shall have their names placed on the general election ballot.

(2) Immediately after the primary election canvass, the secretary of state shall issue certificates of nomination to the nonpartisan candidate or candidates who receive the highest number of votes for the number of vacancies which are to be filled for a particular office and also to the same number of candidates who receive the second highest number of votes for the particular office. The candidates so certified shall have their names placed on the general election ballot. If it appears from the canvass that a particular candidate has received a majority of the total vote cast for the particular office, he shall be issued a certificate of election instead of a certificate of nomination and no candidates shall run for the particular office in the general election.

**History:** S.L. 1970, Ch. 140

## IDAHO CODE: TITLE 34, CHAPTER 12

**34-1215. Certificates of election to federal, state and district offices after general election.** Immediately after the general election canvass, the secretary of state shall issue certificates of election to the federal, state and district candidates who received the highest number of votes for the particular office and they shall be considered duly elected to assume the duties of the office for the next ensuing term.

**History:** S.L. 1970, Ch. 140

**34-1216. Tie votes — In state or district elections.** In the case of a tie vote between the candidates at a primary or general election, the interested parties or their authorized agents shall appear before the secretary of state within two (2) days after the canvass and the tie shall be determined by a toss of a coin.

**History:** S.L. 1970, Ch. 140

**NOTE 34-1216:** Idaho State Constitution Article IV, Sec. 2 - State Legislature decides a tie for state constitutional officers.

**34-1217. Canvassing returns of judicial elections — Certificates of nomination or election.** The board of county commissioners shall canvass the returns of the judicial nominating election at the time the returns of the primary election are canvassed, shall determine, and cause the county clerk to certify to the secretary of state, the result of said judicial nominating election. In such certificate the clerk shall set forth, following the name of each justice of the Supreme Court and each district judge for whom a successor is to be elected at the general election in that year, the vote received by each person who had declared himself to be, and who had been voted for as, a candidate to succeed such justice or district judge.

The returns so made to the secretary of state by the county clerk shall be canvassed by the state board of canvassers at the time the other returns of said primary election are canvassed.

If it appears to the state board of canvassers upon the official canvass that at such judicial nominating election any candidate received a majority of all the votes cast for candidates to succeed a particular justice of the supreme court or district judge, said board shall certify to the secretary of state as duly elected to such office the name of the candidate who received such majority and such candidate whose name is so certified shall receive and the secretary of state shall issue and deliver to him a certificate of election to such office and he shall not be required to stand for election at the general election following.

In the event no candidate received a majority of all votes cast for candidates to succeed a particular justice of the supreme court or a particular district judge, the two (2) candidates receiving the greater number of votes cast for all candidates to succeed such justice of the supreme court or such district judge shall be and shall be declared to be nominees to succeed such justice or such district judge and their names as such nominees shall be placed on the official judicial ballot at the general election next following. The secretary of state shall certify the names of such nominees, including with each the name of the incumbent in office whom such candidates were nominated to succeed, to the county clerks at the time he certifies the names of candidates for other offices certified by him; provided, however, if another be appointed to succeed the incumbent person named on such judicial nominating ballot, the secretary of state shall insert in such certificate or in amendment thereto the name of the appointee in the place of the name of the incumbent person named on such judicial nominating ballot.

**History:** S.L. 1970, Ch. 231; S.L. 1971, Ch. 131

**NOTE 34-1217:** Refers to the canvassing of judicial returns for supreme court and district judges. Although appellate court judges are not mentioned in this section, pursuant to Section 1-2404, *Idaho Code*, the same procedure applies. If a candidate receives a majority of all the votes cast for candidates to succeed a particular judge the candidate is duly elected. If there is not a candidate that receives a majority of all the votes the two candidates receiving the greater number of votes are placed on the judicial ballot at the general election. The Secretary of State issues certificates of nomination and election to supreme, appellate and district judges.



## Chapter 13: State Board Of Canvassers

34-1301 - 34-1307. [Repealed - S.L. 1970, Ch. 140]  
(New law contained Chapter 12 herein)



## Chapter 14: Uniform District Election Law

**34-1401. Election administration.** Notwithstanding any provision to the contrary, the county clerk shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections, and elections of special questions submitted to the electors as provided in this chapter. Water districts governed by chapter 6, title 42, *Idaho Code*, recreational water and/or sewer districts as defined in section 42-3202A, *Idaho Code*, ground water recharge districts governed by chapter 42, title 42, *Idaho Code*, ground water management districts governed by chapter 51, title 42, *Idaho Code*, ground water districts governed by chapter 52, title 42, *Idaho Code*, and irrigation districts governed by title 43, *Idaho Code*, are exempt from the provisions of this chapter. Municipal elections shall be conducted under the provisions of this chapter except for the specific provisions of chapter 4, title 50, *Idaho Code*. All school district and highway district elections shall be conducted pursuant to the provisions of this chapter 14, title 34, *Idaho Code*. All highway district and school district elections shall be administered by the clerk of the county wherein the district lies. Elections in a joint school district or other political subdivisions that extend beyond the boundaries of a single county shall be conducted jointly by the clerks of the respective counties, and the clerk of the home county shall exercise such powers as are necessary to coordinate the election. “**Home county**” shall be defined as the county in which the business office for the district or political subdivision is located. For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide directives and instructions to the various county clerks. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of title 34, *Idaho Code*, governing elections shall prevail over any special provision which conflicts therewith.

The county clerk shall conduct the elections for political subdivisions and shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

**History:** S.L. 1992, Ch. 176; S.L. 1993, Ch. 379; S.L. 1996, Ch. 298; S.L. 2009, Ch. 341; S.L. 2010, Ch. 185; S.L. 2011, Ch. 11

**NOTE 34-1401:** This section in essence repeals any provision of a taxing district’s laws pertaining to the conduct of an election and replaces such provision with Title 34, Chapter 14. If this chapter fails to provide an answer then other provisions of Title 34 apply and prevail over any conflicting provision contained in the law pertaining to a particular political subdivision.

The Secretary of State is authorized to issue directives and instructions to the County Clerks. The County Clerks also have the responsibility to run the political subdivisions elections.

Municipal elections are governed by Title 34, Chapter 14. However, provisions of Title 50, Chapter 4 must also be met.

**NOTE:** Water districts governed by Title 42, Chapter 6, *Idaho Code*, recreational water and/or sewer districts governed by 42-3202A, *Idaho Code*, ground water recharge districts governed by Title 42, Chapter 42, *Idaho Code*, ground water management districts governed by Title 42, Chapter 51, *Idaho Code*, ground water districts governed by Title 42, Chapter 52, *Idaho Code*, and irrigation districts governed by Title 43, *Idaho Code* are exempt from the provisions of Title 34, Chapter 14, *Idaho Code*. These entities will conduct elections under their own specific statutory provisions.

Elections for Joint districts are conducted jointly by the clerks of each county involved. However, the county in which the district office resides is considered the “home county” and will coordinate the election.

**34-1402. Registration.** All electors must register with the county clerk before being able to vote in any primary, general, special or any other election conducted in this state. The county clerk shall determine, for each registered elector, the elections for which he is eligible to vote by a determination of the applicable code areas. The determination of tax code area shall be made for all political subdivisions including those otherwise exempt from the provisions of this chapter.

The county clerk shall conform to the provisions of chapter 4, title 34, *Idaho Code*, in the administration of registration for all political subdivisions within the county.

**History:** S.L. 1992, Ch. 176; S.L. 2003, Ch. 48; S.L. 2011, Ch. 285

## IDAHO CODE: TITLE 34, CHAPTER 14

**NOTE 34-1402:** This section provides that all electors must be registered voters before being able to vote in any election conducted by the County Clerk. Very few elections are conducted which only require an elector's oath.

Pre-registration cut-off is 24 days prior to the election. Electors are also eligible to register on-line or by mail under the provisions of Section 34-410, *Idaho Code*. Also pursuant to Sec. 34-408A, *Idaho Code*, election day registration is available.

**NOTE:** School district electors must also be registered under provisions of Title 34, *Idaho Code*.

**34-1403. Conduct of elections.** All elections conducted in this state on behalf of each political subdivision within the county shall be conducted in a uniform manner with regard to the qualifications of electors and shall be conducted on the dates as provided by law. In the event that a statute governing a political subdivision provides for qualifications more restrictive than the qualifications for an elector in section 34-402, *Idaho Code*, the election official of the district shall provide an elector's oath to be executed at the time of the election certifying to the elector's qualifications for the specific election.

**History:** S.L. 1992, Ch. 176; S.L. 1993, Ch. 313

**NOTE 34-1403:** This section reaffirms the voter registration requirement and allows for an elector's oath to be given to an elector for a specific type of election (e.g. a certain political subdivision may have commissioners who are elected by the residents of a specific zone or sub district). In this instance the elector must be a registered voter and sign an oath attesting to the elector's residency in a specific zone or subdistrict.

**34-1404. Declaration of candidacy.** Candidates for election in any political subdivision shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the office for which the nomination is made, the term for which nomination is made, bear the signature of not less than five (5) electors of the candidate's specific zone or district of the political subdivision, and be filed with the clerk of the political subdivision. The form of the nominating petition shall be as provided by the county clerk and shall be uniform for all political subdivisions. For an election to be held on the third Tuesday in May, in even-numbered years, the nomination petition shall be filed during the period specified in section 34-704, *Idaho Code*. The clerk of the political subdivision shall verify the qualifications of the nominees and shall, no more than seven (7) days after the close of filing, certify the nominees to be placed on the ballot of the political subdivision. For an election to be held on the first Tuesday after the first Monday of November, in even-numbered years, the nomination shall be filed on or before September 1. The clerk of the political subdivision shall verify the qualifications of the nominees and shall, not later than seven (7) days after the close of filing, certify the nominees to be placed on the ballot of the political subdivisions. For all other elections, the nomination shall be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The clerk of the political subdivision shall verify the qualifications of the nominee and shall, not more than seven (7) days following the filing, certify the nominees to be placed on the ballot of the political subdivision.

**History:** S.L. 1992, Ch. 176; S.L. 1993, Ch. 313; S.L. 2009, Ch. 341; S.L. 2010, Ch. 185; S.L. 2011, Ch. 11; S.L. 2014, Ch. 162

**NOTE 34-1404:** Declarations of candidacy are to be filed with the clerk of the separate political subdivision. The county clerk is to verify the registration of the candidate who filed for office and the clerk of the subdivision is to verify the other qualifications to hold the office for which the candidate is running. It is imperative that signatures and qualifications be verified immediately upon receipt because there is no provision to extend the candidate filing period.

Filing for office in city elections is governed by Title 50, sections 406 through 410 of the *Idaho Code*. Cities have a separate declaration form and a candidate may submit a filing fee in lieu of the petition.

After candidates have been determined to meet the qualifications to run for and hold office, the clerk of the political subdivision is to certify the names of the candidates to the County Clerk to be placed on the ballot.

## IDAHO CODE: TITLE 34, CHAPTER 14

**34-1405. Notice of election filing deadline.** (1) Not more than fourteen (14) nor less than (7) days preceding the candidate filing deadline for an election, the county clerk shall cause to be published a notice of the forthcoming candidate filing deadline for all taxing districts. The notice shall include not less than the name of the political subdivision, the place where filing for each office takes place, and a notice of the availability of declarations of candidacy. The notice shall be published in the official newspaper of the political subdivision.

(2) The secretary of state shall compile an election calendar annually which shall include not less than a listing of the political subdivisions which will be conducting candidate elections in the forthcoming year, the place where filing for each office takes place, and the procedure for a declaration of candidacy. Annually in December, the county clerk shall cause to be published the election calendar for the county for the following calendar year. This publication shall be in addition to the publication required by paragraph (1) of this section. The election calendar for the county shall be published in at least two (2) newspapers published within the county, but if this is not possible, the calendar shall be published in one (1) newspaper which has general circulation within the county. Copies of the election calendar shall be available, without charge, from the office of the secretary of state or the county clerk.

**History:** S.L. 1992, Ch. 176; S.L. 1993, Ch. 313; S.L. 2009, Ch. 341

**NOTE 34-1405:** To help make electors aware of upcoming elections and the opportunity they have to become involved and run for office the County Clerk is required to publish a notice of filing prior to close of the candidate filing period. The notice is to be published in the official newspaper of the subdivision. Subsection (1) details the notice requirements for the candidate filing deadline.

**Subsection (2) requires the following:** (1) Secretary of State compiles an annual election calendar for the forthcoming year from information received by County Clerks from their respective political subdivisions.

(2) That the County Clerk publish an annual election calendar in December which lists the political subdivisions conducting elections in the next calendar year.

(3) The physical address of the business office of the political subdivision where declarations of candidacy may be filed is to appear on the published notice.

Election calendars created by the County Clerk are also to be sent to the Secretary of State. The Secretary will compile a calendar of all elections to be held during the year and maintain a copy in the office which is to be made available to the public upon request.

**34-1405A. Withdrawal of candidacy.** A candidate for nomination or candidate for election to an office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. A candidate may not withdraw later than forty five (45) days before an election.

**History:** S.L. 2011, Ch. 11

**34-1406. Notice of Election.** The county clerk shall give notice for each political subdivision for any election by publishing such notice in the official newspaper of the county. The notice shall state the date of the election, the polling places, and the hours during which the polls shall be open for the purpose of voting. The first publication shall be made not less than twelve (12) days prior to the election, and the last publication of notice shall be made not less than five (5) days prior to the election. For each primary, general and special election, the county clerk shall cause to be published a facsimile, except as to size, of the sample ballot in at least two (2) newspapers published within the county, but if this is not possible, the sample ballot shall be published in one (1) newspaper published within the county or one (1) newspaper that has general circulation within the county. Such publication shall be in conjunction with the second notice of election required by this section. The political subdivision shall notify the county clerk in writing of the official newspaper of the political subdivision.

**History:** S.L. 1992, Ch. 176; S.L. 1993, Ch. 313; S.L. 2009, Ch. 341; S.L. 2011, Ch. 11

**NOTE 34-1406:** This section details the notice of election requirements. The notice of election is to be published in the official newspaper of the county. It is also to state that all polling places are accessible to those with disabilities or to identify any polling places that are not accessible.

If applicable, a notice may be published stating that only one candidate filed for office and there were no declared write-ins so pursuant to Idaho law, no election will be held for that subdivision. However, cities cannot cancel their elections if only one candidate files. They are required to still conduct the election.

## IDAHO CODE: TITLE 34, CHAPTER 14

**34-1407. Write-in candidates.** No write-in candidate for any nonpartisan elective office shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of the office. The declaration of intent shall be filed with the clerk of the political subdivision not less than forty-five (45) days before the date of the election.

If the statutes governing elections within a specific political subdivision provide that no election shall be held in the event that no more than one (1) candidate has filed for an office, that statute shall be interpreted in such a manner as to allow for filing a declaration of intent for a write-in candidate until forty-five (45) days preceding the election. However, if no candidate has filed within that time, no election shall be held for that political subdivision. The provisions of this section shall not apply to candidates in the primary or general election covered by the provisions of section 34-702A, *Idaho Code*.

**History:** S.L. 1992, Ch. 176; S.L. 1993, Ch. 313; S.L. 1997, Ch. 362; S.L. 2011, Ch. 11

**NOTE 34-1407:** This section clarifies that all political subdivisions covered by the provisions of Title 34, Ch. 14 must allow for a write-in candidate. However, in order to be a valid write-in candidate a person must file a declaration of intent with the applicable political subdivision. The subdivision is to notify the County Clerk immediately after the last day to file a declaration of intent so the Clerk can determine whether or not to include the office on the ballot.

In those political subdivisions which do not require an election if only (1) candidate files, an election cannot be canceled until the end of the filing period for write-in candidates.

**34-1408. Absentee ballots.** Any registered elector may vote at any election by absentee ballot as provided in chapter 10, title 34, *Idaho Code*. In the event of a written application to the county clerk for an absentee ballot, the application shall be deemed to be an application for all ballots to be voted in the election, and the county clerk shall provide the ballot of the political subdivision to the elector.

**History:** S.L. 1992, Ch. 176; S.L. 2010, Ch. 185

**NOTE 34-1408:** This section requires that all political subdivisions must provide for absentee voting. Written application for an absentee ballot can be sent to the County Clerk. Any application for an absentee received by the election official of the political subdivision should transfer the request to the County Clerk. When the County Clerk receives an application, the clerk provides the ballot of the political subdivision to the elector.

**34-1409. Conduct of election on election day.** At all elections conducted by any political subdivision, the polls shall be opened at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the election official may, at his option, open the polls in his jurisdiction at 7:00 a.m.

All political subdivisions conducting election on the same date shall, whenever practicable, use the same polling places.

**History:** S.L. 1992, Ch. 176

**NOTE 34-1409:** This section mandates that all elections be conducted from 8:00 a.m. to 8:00 p.m. unless the election official chooses to open the polls at 7:00 a.m.

The intent of this section is to allow voters to go to one polling place and vote for the various candidates and issues of the political subdivisions conducting an election on that day. Whenever practicable the same polling places should be utilized.

**34-1410. Canvassing of election results.** The board of county commissioners shall conduct the canvass of the election results within ten (10) days after the election, in the manner provided in chapter 12, title 34, *Idaho Code*. The county clerk shall certify the election results to the clerk of each political subdivision for which an election was held. Each political subdivision shall issue the appropriate certificates of election.

**History:** S.L. 1992, Ch. 176; S.L. 2010, Ch. 185; S.L. 2011, Ch. 11

## IDAHO CODE: TITLE 34, CHAPTER 14

**34-1411. Payment of election expenses by county.** (1) On and after January 1, 2011, no county shall charge any taxing district, as defined in section 63-201, *Idaho Code*, for expenses associated with conducting any election on behalf of any taxing district, with the exception of expenses associated with conducting municipal runoff elections, which shall be paid by the city adopting runoff elections pursuant to the provisions of section 50-612 or 50-707B, *Idaho Code*. Expenses associated with conducting taxing district elections shall include:

- (a) Costs of ballot preparation, distribution, printing and counting, including absentee ballots.
- (b) Costs of printing poll books and costs of tally books, stamps, signs and any other voting supplies, publications and equipment.
- (c) Wages or other compensation for election judges and clerks or any county employees or officials performing duties associated with conducting taxing district elections.
- (d) Costs paid for renting polling facilities.
- (e) Acquisition, repair, maintenance or any other costs associated with voting machines or vote tally systems as defined in subsections (9) and (10) of section 34-2401, *Idaho Code*.
- (f) Costs of publishing and printing election notices and ballots.

(2) Counties shall not be responsible for any election expenses prior to the time any taxing district orders an election, such as notice and costs for public hearings and notice and costs for public hearings on ballot measures.

(3) Notwithstanding the provisions of subsection (1) of this section, all ballot questions shall be limited to two hundred fifty (250) words or less. If a ballot question is in excess of two hundred fifty (250) words, the entity proposing a ballot question that is not a state constitutional amendment shall be required to pay the ballot printing costs associated with the ballot question.

**History:** 2009, Ch. 341

**34-1412. Terms of office going beyond the next election date.** Notwithstanding any other provision of law to the contrary, whenever a member of the governing board of a taxing district has been elected to a term of office that goes beyond the next election date as provided by statute, such member of the governing board shall be entitled to serve his or her term of office and shall continue to serve until the following election provided by statute. All governing board members elected on and after January 1, 2011, shall serve terms of office beginning and ending as otherwise provided by statute.

**History:** S.L. 2011, Ch.11

**NOTE 34-1412:** This section is intended to cover the transition of district elections from even to odd- numbered year elections. If a board member was elected in 2008 and would, under the old law, stand for election in 2012, he or she would continue in office until the next election of the district - which should be in 2013. The same applies to those who would be up for election in 2014. They will continue until 2015.

This should all be resolved after 2015 when everyone will then be on the appropriate election cycle.

**34-1413. Procedures for certain political subdivision elections to modify voting procedures.** Any county that wishes to modify voting procedures for a political subdivision election shall submit an election plan to the secretary of state for approval for the modified voting procedures to be effective at least forty (40) calendar days prior to an election. The secretary of state shall notify the political subdivision of its approval, disapproval and, if it is disapproved, what remedial measures may be taken that would allow for approval of the voting plan.

**History:** S.L. 2011, Ch. 285; S.L. 2014, Ch. 162

**NOTE 34-1413:** Counties conducting consolidated elections may request a modification of voting procedures for an upcoming election. This may include mailing ballots to all eligible voters, sending voters from one county to another to vote, or combining precincts together. Any request must be submitted to the Secretary of State so it can be acted on at least 40 days before the election.

This section requires that the Secretary of State must approve or disapprove of modifying voting procedures for a political subdivision contained in more than one county.



## Chapter 15: Presidential Electors

**34-1501. Certificates of election.** The secretary of state shall prepare lists of the names of the electors of president and vice-president of the United States, elected at any election, procure thereto the signature of the governor, affix the seal of the state to the same, and deliver one (1) of such certificates thus signed to each of said electors on or before the second Wednesday in December next after such election.

**History:** 1890-1891, p. 57, section 110; reen. 1899, p. 33, section 101; reen. R.C. & C.L., section 459; C.S., section 643; I.C.A., section 33-1401

**NOTE 34-1501:** The Secretary of State prepares certificates of election for presidential electors.

**34-1502. Election for presidential electors.** There shall be an election held in this state for the election of such electors, at the times appointed by any law of the Congress or the Constitution of the United States for such election, and when such election shall be special, the same shall be called and held, and the votes polled and canvassed, in all respects as at a general election, and the duties of the electors so elected shall be the same as prescribed by law for electors elected at a general election.

**History:** 1890-1891, p. 57, latter part of section 115; reen. 1899, p. 33, section 102; am. R.C. & C.L., section 460; C.S., section 644; I.C.A., section 33-1402

**34-1503. Meeting of electors.** The electors chosen to elect a president and vice-president of the United States shall, at twelve (12) o'clock noon on the day which is or may be directed by the Congress of the United States, meet at the seat of government of this state, and then and there perform the duties enjoined upon them by the Constitution and laws of the United States.

**History:** 1890-1891, p. 57, section 111; reen. 1899, p. 66, section 1; am. R.C. & C.L., section 461; C.S., section 645; I.C.A., section 33-1403

**NOTE 34-1503:** Presidential electors meet at 12:00 noon on the first Monday after the second Wednesday in December at the state capitol to cast their votes for president and vice-president.

**34-1504. Notice to governor — Vacancies, how filled.** Each elector of president and vice-president of the United States shall, before the hour of twelve (12) o'clock on the day next preceding the day fixed by the law of Congress to elect a president and vice-president, give notice to the governor that he is at the seat of government and ready at the proper time to perform the duties of an elector; and the governor shall forthwith deliver to the electors present a certificate of all the names of the electors; and if any elector named therein fails to appear before nine (9) o'clock on the morning of the day of election of president and vice-president as aforesaid, the electors then present shall immediately proceed to elect, by ballot, in the presence of the governor, persons to fill such vacancies.

**History:** 1890-1891, p. 57, section 112; reen. 1899, p. 66, section 2; am. R.C. & C.L., section 462; C.S., section 646; I.C.A., section 33-1404

**NOTE 34-1504:** Presidential electors must be present by 9:00 a.m. on the morning of the day of election of president and vice-president. If an elector fails to appear, the remaining electors shall elect a replacement. In the event there is a tie in the vote the governor shall decide by lot and immediately notify the person(s) in order that such individual appear and vote at 12:00 noon.

**34-1505. Filling vacancies — Tie vote.** If more than the number of persons required to fill the vacancies, as aforesaid, have the highest and an equal number of votes, then the governor, in the presence of the electors attending, shall decide by lot which of said persons shall be elected; otherwise they, to the number required, having the greatest number of votes, shall be considered elected to fill such vacancies.

**History:** 1890-1891, p. 57, section 113; reen. 1899, p. 66, section 3; reen. R.C. & C.L., section 463; C.S., section 647; I.C.A., section 33-1405

## IDAHO CODE: TITLE 34, CHAPTER 15

**34-1506. Notification of election to fill vacancy.** Immediately after such choice is made the names of the persons so chosen shall forthwith be certified to the governor by the electors making such choice; and the governor shall cause immediate notice to be given in writing to the electors chosen to fill such vacancies; and the said persons so chosen shall be electors, and shall meet the other electors at the same time and place, and then and there discharge all and singular the duties enjoined on them as electors aforesaid by the Constitution and laws of the United States and of this state.

**History:** 1890-1891, p. 57, section 114; reen. 1899, p. 66, section 4; reen. R.C. & C.L., section 464; C.S., section 648; I.C.A., section 33-1406

**34-1507. Compensation and mileage of electors.** Every elector of this state for the election of president and vice president of the United States, hereafter elected, who shall attend and give his vote for those offices at the time and place appointed by law, shall be compensated as provided by section ~~59-509~~(d), *Idaho Code*.

**History:** 1890-1891, p. 57, section 115; reen. 1899, p. 66, section 5; am. R.C. & C.L., section 465; C.S., section 649; I.C.A., section 33-1407; S.L. 1980, Ch. 247

**NOTE 34-1507:** Presidential Electors are to be compensated the sum of fifteen dollars (\$15.00) per day, and shall be reimbursed for actual and necessary travel expenses.

## Chapter 16: Special Elections

**34-1601 - 34-1605. [Repealed - S.L. 1970, Ch. 140]**

(New law contained throughout Title 34 with laws governing General Election applicable)



## Chapter 17: Recall Elections

**34-1701. Officers subject to recall.** The following public officers, whether holding their elective office by election or appointment, and none other, are subject to recall:

- (1) State officers:
  - (a) The governor, lieutenant-governor, secretary of state, state controller, state treasurer, attorney general, and superintendent of public instruction;
  - (b) Members of the state senate, and members of the state house of representatives.
- (2) County officers:
  - (a) The members of the board of county commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court, and coroner.
- (3) City officers:
  - (a) The mayor;
  - (b) Members of the city council.
- (4) Special district elected officers for whom recall procedure is not otherwise provided by law.

**History:** S.L. 1972, Ch. 283; S.L. 1975, Ch. 137; S.L. 1994, Ch. 181; S.L. 1995, Ch. 266

**NOTE 34-1701:** Lists offices subject to recall.

**34-1702. Required signatures on petition.** A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(1) If the petition seeks recall of any of the officers named in subsection (1)(a) of section 34-1701, *Idaho Code*, the petition shall be filed with the secretary of state, and must be signed by registered electors equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

(2) If the petition seeks recall of any of the officers named in subsection (1)(b) of section 34-1701, *Idaho Code*, the petition shall be filed with the secretary of state, and must be signed by registered electors of the legislative district equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

(3) If the petition seeks recall of any of the officers named in subsection (2)(a) of section 34-1701, *Idaho Code*, the petition shall be filed with the county clerk, and must be signed by registered electors of the county equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the county for the election of county officers at which the officer was elected.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section 34-1701, *Idaho Code*, the petition shall be filed with the city clerk, and must be signed by registered electors of the city equal in number to twenty percent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers.

(5) If the petition seeks recall of any of the officers named in subsection (4) of section 34-1701, *Idaho Code*, the petition shall be filed with the county clerk of the county wherein the district is located. If the district is located in two (2) or more counties, the clerk in each county shall perform the functions within that county. The petition must be signed by registered electors of the district or school trustee zone equal in number to fifty percent (50%) of the number of electors who cast votes in the last election of the district or school trustee zone. If no district election has been held in the last six

(6) years, the petition must be signed by twenty percent (20%) of the number of electors registered to vote in the district or school trustee zone at the time the petition is filed.

**History:** S.L. 1972, Ch. 283; S.L. 1995, Ch. 266; S.L. 2003, Ch. 57; S.L. 2012, Ch. 211

**NOTE 34-1702:** 20% of the number of electors registered to vote at the election in which the official being recalled was elected are required to institute a recall election for statewide, legislative and county. 20% of the number of electors registered to vote at the last city election at which the city elected officers does not have to be the election at which the officer being recalled was elected. 50% of the number of electors who cast votes in the last election of the district are required to institute a recall election for special district elected officers except when the special district has not held an election in 6 years, the petition must be signed by 20% of the electors registered in the district at the time the petition with the 20 qualified electors is filed.

## IDAHO CODE: TITLE 34, CHAPTER 17

**34-1703. Form of petition.** (1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

### RECALL PETITION

To the honorable \_\_\_\_\_, Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that \_\_\_\_\_, holding the office of \_\_\_\_\_, be recalled by the registered electors of this state for the following reasons, to-wit: (setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, address, including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date	Street and Number
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*(Here follow twenty numbered lines for signatures.)*

(2) The recall petition for members of the state legislature shall be in substantially the following form:

### RECALL PETITION

To the honorable \_\_\_\_\_, Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No. \_\_\_\_\_, respectfully demand that \_\_\_\_\_, holding the office of \_\_\_\_\_, be recalled by the registered electors of Legislative District No. \_\_\_\_\_ for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No. \_\_\_\_\_, my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date	Street and Number
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*(Here follow twenty numbered lines for signatures.)*

(3) The recall petition for county officers shall be in substantially the following form:

### RECALL PETITION

To the honorable \_\_\_\_\_, County Clerk for the County of \_\_\_\_\_:

We, the undersigned citizens and registered electors of the County of \_\_\_\_\_, respectfully demand that \_\_\_\_\_, holding the office of \_\_\_\_\_, of the County of \_\_\_\_\_, be recalled by the registered electors of the County of \_\_\_\_\_ for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of \_\_\_\_\_, my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date	Street and Number
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*(Here follow twenty numbered lines for signatures.)*

## IDAHO CODE: TITLE 34, CHAPTER 17

- (4) The recall petition for city officers shall be in substantially the following form:

### RECALL PETITION

To the honorable \_\_\_\_\_, City Clerk for the City of \_\_\_\_\_:

We, the undersigned citizens and registered electors of the City of \_\_\_\_\_, respectfully demand that \_\_\_\_\_, holding the office of \_\_\_\_\_, of the City of \_\_\_\_\_, be recalled by the registered electors of the City of \_\_\_\_\_ for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of \_\_\_\_\_, my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date	Street and Number
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*(Here follow twenty numbered lines for signatures.)*

- (5) The recall petition for special district officers shall be in substantially the following form:

### RECALL PETITION

To the honorable \_\_\_\_\_, County Clerk of the County of \_\_\_\_\_:

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand that \_\_\_\_\_, holding the office of \_\_\_\_\_, of the (district), be recalled by the registered electors of the (district) for the following reasons, to-wit:

(insert the reasons for the recall in two hundred 200 words or less); that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date	Street and Number
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*(Here follow twenty numbered lines for signatures.)*

**History:** S.L. 1972, Ch. 283; S.L. 1989, Ch. 344; S.L. 1995, Ch. 266; S.L. 2013, Ch 135

**NOTE 34-1703:** Statutory form of recall petition for statewide, legislative district, county, city and special district officials.

An explanation setting forth the reasons for the recall is required on the cover petition; not to exceed 200 words.

Recall outline and sample forms available upon request from Secretary of State's office and can be found in Section III on pages K-1 - K-11.

**34-1704. Printing of petition and sheets for signatures — Time limits for perfecting petition.** (1) Before or at the time of beginning to circulate any petition for the recall of any officer subject to recall, the person or persons, organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the secretary of state, county clerk, or city clerk, as the case may be, a copy of a prospective petition duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and signature sheets for recall shall be printed on a good quality bond paper of standardized size in substantial conformance within the provisions of section 34-1703, *Idaho Code*. To every sheet of petitioners' signatures shall be attached a full and correct copy of the recall petition.

## IDAHO CODE: TITLE 34, CHAPTER 17

(2) The secretary of state, county clerk, or city clerk, as the case may be, shall indicate in writing on the prospective recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the secretary of state, county clerk, or city clerk, shall inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of signatures within seventy-five (75) days following the date of approval as to form. Signatures on the prospective petition shall not be counted toward the required number of signatures. Any petition that does not contain the required number of signatures within the seventy-five (75) days allowed shall be declared null and void ab initio in its entirety.

**History:** S.L. 1972, Ch. 283; S.L. 1975, Ch. 137; S.L. 2004, Ch. 164; S.L. 2013, Ch. 135

**NOTE 34-1704:** Before or at the time of beginning to circulate any petition for the recall of any officer, the petition to be circulated must be signed by at least 20 electors eligible to sign such petition and be filed with the proper filing officer. The filing officer is to make any corrections need to the format of the recall petition and give the petitioner a written approval of the form of the petition to be used.

Petitions are to be printed on 8 1/2 x 14 or 8 1/2 x 11 inch paper to accommodate 20 signatures.

Upon approval as to form, the filing officer informs whoever is circulating the recall petition, in writing, that the petition must be perfected with the required number of certified signatures within 75 days following the date of approval as to form.

A full and correct copy of the recall petition must be attached to each sheet of petitioners signatures.

The original 20 electors on the qualifying petitions are not counted toward meeting the necessary number of signatures. However, the same 20 electors may sign the petition after the filing officer has approved it for circulation and be counted toward meeting the necessary number of signatures.

**34-1705. Verification on sheets for signatures.** Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho  
County of \_\_\_\_\_ } s.s.

I, \_\_\_\_\_, swear, under penalty of perjury, that I am a resident of the State of Idaho and at least eighteen (18) years of age; and that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

Signature \_\_\_\_\_

Post office address \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public \_\_\_\_\_

Residing at \_\_\_\_\_

(Notary Seal)

**History:** S.L. 1972, Ch. 283; S.L. 2004, Ch. 164

**NOTE 34-1705:** Each signature sheet must be verified by the person who circulated that particular petition, and that person's signature, in turn, is verified by a notary public.

## IDAHO CODE: TITLE 34, CHAPTER 17

**34-1706. Examination and Certification of Signatures.** All petitions with attached signature sheets shall be filed on the same day with the secretary of state, county clerk, or city clerk, as the case may be. The secretary of state or the city clerk shall promptly transmit the petitions and attached signature sheets to the county clerk. An examination to verify whether or not the petition signers are qualified electors shall be conducted by the county clerk and a certificate shall be attached to the signature sheets as provided in section 34-1807, *Idaho Code*. This examination shall not exceed fifteen (15) business days from the date of receipt of the petitions.

**History:** S.L. 1972, Ch. 283; S.L. 1975, Ch. 137; S.L. 1995, Ch. 266; S.L. 2004, Ch 164; S.L. 2013, Ch. 135

**NOTE 34-1706:** Petitions filed with the Secretary of State or the City Clerk shall be promptly transmitted to the County Clerk for verification that the signers are registered electors. This verification shall not exceed 15 business days from the date of receipt.

**34-1707. Sufficiency of petition — notification — effect of resignation — special election.**

(1) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly, provide written notice to the officer being recalled, and the petitioner informing them, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section 34-106, *Idaho Code*. If the officer being recalled is one (1) specified in section 34-1701(1)(a), *Idaho Code*, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701(1)(b), *Idaho Code*, the special election shall be conducted only in the legislative district.

(2) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section 34-106, *Idaho Code*. The special election shall be conducted countywide.

(3) In the event that a petition filed with the county clerk concerning the recall of an official of a special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled, and the petitioner, and the governing board of the special district informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the governing board of the special district. The special election must be held on the date prescribed in section 34-106, *Idaho Code*. The election shall be conducted by the county clerk in the manner provided in section 34-1401, *Idaho Code*.

(4) In the event that a petition filed with the city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held on the date prescribed in section 34-106, *Idaho Code*. The special election shall be conducted citywide.

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(5) In the event that a petition is found not to have the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of ninety (90) days against the same officer.

**History:** S.L. 1972, Ch. 283; S.L. 1975, Ch. 137; S.L. 1989, Ch. 344; S.L. 1993, Ch. 313; S.L. 1994, Ch. 54; S.L. 1995, Ch. 266; S.L. 2004, Ch. 164; S.L. 2012, Ch. 211; S.L. 2013, Ch. 135

**NOTE 34-1707:** If the filing officer finds the petition of adequate number and form, he notifies the petitioners and the officer subject to recall by certified mail. In the event a person being recalled does not pick up the certified letter, an alternate method of delivery is appropriate (typically, delivery by a law enforcement officer).

The elected official subject to recall is given 5 business days from the time the official received or should have received notice to resign his office. If the officer does not resign within the 5 business day period, the filing officer then calls a special election.

The special election must be held on the nearest date authorized in Section 34-106(1), *Idaho Code.*, which falls more than 45 days after the filing officer orders the recall election to be held.

In the event the petition does not contain the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of 90 days against the same officer.

**34-1708. Form of recall ballot.** The ballot at any recall election shall be headed “**RECALL BALLOT**” and on the ballot shall be printed in not more than two hundred (200) words the reason for demanding the recall of the officer named in the recall petition, and in not more than two hundred (200) words the officer’s justification of his course in office. Then the question of whether the officer should be recalled shall be placed on the ballot in a form substantially similar to the following:

FOR recalling _____	who holds office of _____
AGAINST recalling _____	who holds office of _____

**History:** S.L. 1972, Ch. 283; S.L. 1989, Ch. 344

**NOTE 34-1708:** The special election ballot will be titled “**RECALL BALLOT**”, and will include the reasons demanding the recall used by the petitioners, and also a rebuttal issued by the officer subject to recall. Both statements must not exceed more than 200 words.

**34-1709. Officer to continue in office.** The officer named in the recall petition shall continue to perform the duties of his office until the results of the special recall election are officially declared.

**History:** S.L. 1972, Ch. 283

**34-1710. Conduct of Special recall election.** Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects as general elections, except as otherwise provided. Nothing in this chapter shall preclude the holding of a recall election with another election.

**History:** S.L. 1972, Ch. 283; S.L. 1989, Ch. 344; S.L. 1995, Ch. 118

**NOTE 34-1710:** A recall election may be held with another election and is to be held on the next election date which is more than 45 days after the official being recalled has had the opportunity to resign.

**34-1711. Canvass of returns.** (1) The board of county commissioners shall act as the board of canvassers for all special recall elections that involve elections held wholly or partly within their county.

(a) For all special recall elections involving state officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and shall immediately transmit to the secretary of state an abstract of the votes cast.

(b) Within fifteen (15) days following the special recall election held to recall a state officer, the state board of canvassers shall meet and canvass the votes cast at such election, and the secretary of state shall immediately after the completion thereof, proclaim the results.

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(c) For all special recall elections involving county officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results.

(d) For all special recall elections involving city or special district officials, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results. The county clerk shall certify the results of the recall election to the clerk of the political subdivision for which the election was held.

**History:** S.L. 1972, Ch. 283; S.L. 2004, Ch. 164; S.L. 2013, Ch. 135

**NOTE 34-1711:** Canvass of a recall election involves the same board of canvassers as a general election.

**34-1712. General Election Laws Control.** (1) The provisions relating to general elections, including the payment of expenses of conducting the recall election, shall govern special recall elections except where otherwise provided.

(2) Whenever a special recall election is ordered, notice must be issued in the same manner as for a general election.

(3) To recall any officer, a majority of the votes cast at the special recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall must equal or exceed the votes cast at the last general election for that officer. If the officer was appointed or was not required to stand for election, then a majority of the votes cast in the recall election shall be the number necessary for recall.

(4) If recalled, an officer shall be recalled as of the time when the results of the special recall election are proclaimed, and a vacancy in the office shall exist.

(5) If an officer is recalled from his office the vacancy shall be filled in the manner provided by law for filling a vacancy in that office arising from any other cause.

**History:** S.L. 1972, Ch. 283; S.L. 1975, Ch. 137; S.L. 2003, Ch. 57; S.L. 2013, Ch. 135

**NOTE 34-1712:** To recall any officer, a majority of the votes cast at the recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall, must equal or exceed the votes cast at the last general election for that officer. If the officer was appointed then a majority vote in favor of the recall is the only decisive factor.

The recall is effective at the time the results of the canvass are proclaimed. At that time, the office becomes vacant and is filled as otherwise provided by law.

**34-1713. Time within which recall may be filed — Removal of signatures.** (1) No petition for a recall shall be circulated against any officer until he has actually held office under the current term for at least ninety (90) days.

(2) After one (1) special recall election, no further recall petition shall be filed against the same officer during his current term of office, unless the petitioners first pay into the public treasury which has paid such special recall election expenses the whole amount of the expenses for the preceding recall election. The specific reason for recall in one (1) recall petition for which an election has been held cannot be the basis for a second recall petition during that current term of office.

(3) The signer of any recall petition may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed.

**History:** S.L. 1972, Ch. 283; S.L. 1975, Ch. 137; S.L. 2004, Ch. 164; S.L. 2013, Ch. 135

**NOTE 34-1713:** Restrictions on circulation of a recall petition are: No petition may be circulated until the officer has actually held office 90 days under the current term; only 1 recall election per term unless petitioner pays expenses of previous recall for same official; specific reason for recall in 1 petition cannot be the basis for a 2nd recall during current term of office.

A signer of a recall petition may only remove his name prior to the time the petition is filed.

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**34-1714. Prohibited acts — Penalties.** (1) A person is guilty of a felony of the third degree, who:

- (a) Signs any name other than his own to any recall petition;
- (b) Knowingly signs his name more than once on the same recall petition;
- (c) Knowingly signs his name to any recall petition for the recall of any state, county or city officer if he is not a registered elector;
- (d) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition.
- (e) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;
- (f) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;
- (g) Makes any false affidavit concerning any recall petition or the signatures appended thereto;
- (h) Offers, proposes or threatens for any pecuniary reward or consideration:
  - (i) To offer, purpose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures therein;
  - (ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;
  - (iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

(2) A public officer is guilty of a felony, who:

- (a) Knowingly make any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

**History:** S.L. 1972, Ch. 283

**NOTE 34-1714:** States what is prohibitive for circulators and signers of a recall petition, i.e. a person can only sign for themselves, cannot sign a recall petition more than once.

**34-1715. Refusal to accept petition — Mandate — Injunction.** If the secretary of state, county clerk, or city clerk, refuses to accept and file any petition for the recall of a public officer with the requisite number of eligible signatures, any citizen may apply within ten (10) business days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state, county clerk, or city clerk shall then accept and file the recall petition, with a certified copy of the judgement attached thereto, as of the date on which it was originally offered for filing in his office, except that the time limitations required by section 34-1704(2), *Idaho Code*, shall begin to run only as of the date of the court judgement, which shall be so stated in the judgement. On a showing that the petition is not legally sufficient, the court may enjoin the secretary of state, county clerk, or city clerk, and all other officers from certifying or printing any official ballot for a recall election. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the court of appeals within ten (10) business days after a decision is rendered. The district court of the state of Idaho in and for Ada County shall have jurisdiction in all cases involving the recall of state officers.

**History:** S.L. 1972, Ch. 283; S.L. 2004, Ch. 164

## Chapter 18: Initiative And Referendum Elections

**34-1801. Statement of legislative intent and legislative purpose.** The legislature of the state of Idaho finds that there have been incidents of fraudulent and misleading practices in soliciting and obtaining signatures on initiative or referendum petitions, or both, that false signatures have been placed upon initiative or referendum petitions, or both, that difficulties have arisen in determining the identity of petition circulators and that substantial danger exists that such unlawful practices will or may continue in the future. In order to prevent and deter such behavior, the legislature determines that it is necessary to provide easy identity to the public of those persons who solicit or obtain signatures on initiative or referendum petitions, or both, and of those persons for whom they are soliciting and obtaining signatures and to inform the public concerning the solicitation and obtaining of such signatures. It is the purpose of the legislature in enacting this act to fulfill the foregoing statement of intent and remedy the foregoing practices.

**History:** S.L. 1997, Ch. 266

**34-1801A. Petition.** The following shall be substantially the form of petition for any law proposed by the initiative:

**WARNING:** It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

### INITIATIVE PETITION

To the honorable \_\_\_\_\_, Secretary of State of the State of Idaho:

We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law, to-wit: (setting out full text of measure proposed) shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_, and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and legislative district are correctly written after my name.

Signature	Printed Name	Residence Street & Number	City	Date	Legislative District Official Use Only
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*(Here follow twenty numbered lines for signatures.)*

The petition for referendum on any act passed by the state legislature of the state of Idaho shall be in substantially the same form with appropriate title and changes, setting out in full the text of the act of the legislature to be referred to the people for their approval or rejection.

**History:** S.L. 1933, Ch. 210; S.L. 1988, Ch. 48; S.L. 1997, Ch. 266; S.L. 2013, Ch. 89; S.L. 2013, Ch. 336

**NOTE 34-1801A:** The proposed initiative petition is to look substantively like this form and is to have the proposed legislation attached. The proposed legislation is to be written in legislative format spelling out the detailed language of the proposed law. It cannot just be a vague concept.

**34-1801B. Initiative and referendum procedures for cities.** Each city shall allow direct legislation by the people through the initiative and referendum. Cities shall follow the procedures set forth in this chapter subject to the following provisions:

- (1) The city attorney shall perform the duties assigned to the attorney general.
- (2) The city clerk shall perform the duties assigned to the secretary of state.
- (3) City initiative and referendum elections shall be held on the Tuesday following the first Monday in November in odd-numbered years.
- (4) An action brought pursuant to section 34-1809, *Idaho Code*, challenging the ballot title or short title shall be brought in the district court in the county in which the city is located. Pursuant to section 34-1809, *Idaho Code*, the city attorney shall prepare recommendations concerning revision of the initiative or referendum, issue a certificate of review to the city clerk, and shall prepare the ballot title and short title.
- (5) To be eligible to sign a petition for city initiative or referendum a person shall be a qualified elector of the city at the time of signing thereon.
- (6) To perfect a petition for city initiative or referendum the petition shall have signatures from at least twenty percent (20%) of the total number of qualified electors voting in the last general city election in November of an odd-numbered year.

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(7) The provisions of section 34-1805, *Idaho Code*, relating to the number of required signatures and geographic distribution of signatures shall not apply to city initiative or referendum.

(8) Any person who circulates a petition for city initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age, and pursuant to section 34-1807, *Idaho Code*, shall certify their belief that each signer of the petition is a qualified elector of the state of Idaho and the city.

(9) A copy of all petitions and signature sheets shall be kept by the city clerk as a public record.

(10) The prospective petition for referendum, as provided by section 34-1804, *Idaho Code*, shall be filed not more than sixty (60) days following publication of the adopted ordinance as provided by section 50-901, *Idaho Code*.

(11) The deadline for submission of signatures to the city clerk is one hundred eighty (180) days after the petitioners for initiative or referendum receive the official ballot title from the city clerk, or April 30 of the year of the initiative or referendum election, whichever is earlier.

(12) Petitioners must submit the signed initiative or referendum petition to the county clerk for verification not later than the close of business on the first day of May in the year of the initiative or referendum election, or one hundred eighty (180) days after the petitioners receive the official ballot title from the city clerk, whichever is earlier.

(14) The county clerk has sixty (60) calendar days to verify the signatures as provided in subsection (3) of section 34-1802, *Idaho Code*.

(15) The city council shall have the option to adopt the ordinance proposed by the initiative within thirty (30) days after the notification pursuant to section 34-1807, *Idaho Code*, provided that the petition has the required number of signatures. The city council shall hold a public hearing on the proposed ordinance within the thirty (30) day period, preceded by legal notice published once in the official city newspaper at least seven (7) days preceding the hearing. If the ordinance is not adopted by the council by the end of the thirty (30) day period, the initiative shall be put on the ballot.

(16) As provided by section 34-1812A through 34-1812C, *Idaho Code*, a voters' pamphlet shall be prepared by the city clerk.

(17) To be passed into law an initiative or referendum shall be approved by a majority of votes cast on the measure.

(18) The mayor shall issue the proclamation provided by section 34-1813, *Idaho Code*.

(19) The city clerk shall publish an ordinance adopted by initiative or referendum within thirty (30) days after the proclamation by the mayor provided in subsection (18) of this section.

(20) All city ordinances setting forth procedures for initiative or referendum are void on July 1, 2015.

(21) This section does not apply to bond elections.

**History:** S.L. 2015, Ch. 285

**NOTE 34-1801B:** (1) City initiative and referendum elections are in November of odd-numbered years.

(2) Petition signatures are to be submitted for verification no later than May 1 in an election year or 180 days from date of receipt of ballot title, whichever occurs earlier.

(3) Clerk verifies signatures within 60 days of deadline for submission, but not later than June 30 of a city election year.

(4) City initiative and referendum petitions require 20% of total number of qualified electors at last general city election and all signers of the petition must be city residents at time of signing.

(5) City council can adopt proposed ordinance with 30 days after required signatures verified or the initiative will be put on the ballot.

**34-1802. Initiative petitions – Time for gathering signatures – Time for submission of signatures to the county clerk – Time for filing.** (1) Except as provided in section 34-1804, *Idaho Code*, petitions for an initiative shall be circulated and signatures obtained beginning upon the date that the petitioners receive the official ballot title from the secretary of state and extending eighteen (18) months from that date or April 30 of the year of the next general election, whichever occurs earlier. The last day for circulating petitions and obtaining signatures shall be the last day of April in the year an election on the initiative will be held.

(2) The person or persons or organization or organizations under whose authority the measure is to be initiated shall submit the petitions containing signatures to the county clerk for verification pursuant to the provisions of section 34-1807, *Idaho Code*. The signatures required shall be submitted to the county clerk not later than the close of business on the first day of May in the year an election on the initiative will be held, or eighteen (18) months from the date the petitioner receives the official ballot title from the secretary of state, whichever is earlier.

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(3) The county clerk shall, within sixty (60) calendar days of the deadline for the submission of the signatures, verify the signatures contained in the petitions, but in no event shall the time extend beyond the last day of June in the year an election on the initiative will be held.

(4) Initiative petitions with the requisite number of signatures attached shall be filed with the secretary of state not less than four (4) months before the election at which they are to be voted upon.

**History:** S.L. 1933, Ch. 210; S.L. 1997, Ch. 266; S.L. 2011, Ch. 285

**NOTE 34-1802:** (1) Limits circulation of initiative to 18 months or April 30 of the year of the next general election, whichever occurs earlier.

(2) Signatures are to be submitted for verification no later than May 1 in an election year or 18 months from date of receipt of ballot title, whichever occurs earlier.

(3) Clerk verifies signatures within 60 days of deadline for submission, but not later than June 30 of an election year.

(4) Deadline for initiative petitions to be filed with Secretary of State with requisite signatures is not less than 4 months before the general election at which they are to be voted upon.

**34-1803. Referendum petitions — Time for filing — When election held — Effective date of law.** Referendum petitions with the requisite number of signatures attached shall be filed with the secretary of state not more than sixty (60) days after the final adjournment of the session of the state legislature which passed on the bill on which the referendum is demanded. All elections on measures referred to the people of the state shall be had at the biennial regular election. Any measure so referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon, and not otherwise.

**History:** S.L. 1933, Ch. 210

**NOTE 34-1803:** Deadline for referendum petitions to be filed with Secretary of State with requisite signatures is not more than 60 days after the final adjournment of the session of the State Legislature which passed the bill on which the referendum is demanded.

**34-1803B. Initiative and referendum petitions – Removal of signatures.** (1) The signer of any initiative or referendum petition may remove his or her own name from the petition by crossing out, obliterating or otherwise defacing his or her own signature at any time prior to the time when the petition is presented to the county clerk for signature verification.

(2) The signer of any initiative or referendum petition may have his or her name removed from the petition at any time after presentation of the petition to the county clerk but prior to verification of the signature, by presenting or submitting to the county clerk a signed statement that the signer desires to have his name removed from the petition. The statement shall contain sufficient information to clearly identify the signer. The county clerk shall immediately strike the signer's name from the petition, and adjust the total of certified signatures on the petition accordingly. The statement shall be attached to, and become a part of the initiative or referendum petition.

**History:** S.L. 1997, Ch. 266

**NOTE 34-1803B:** Allows signer of petition to remove their own name, this must be done prior to the petitioner's signature being verified.

**34-1804. Printing of petition and signature sheets.** Before or at the time of beginning to circulate any petition for the referendum to the people on any act passed by the state legislature of the state of Idaho, or for any law proposed by the initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the secretary of state a copy of such petition duly signed by at least twenty (20) qualified electors of the state which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the attorney general for the issuance of the certificate of review as provided in section 34-1809, *Idaho Code*. All petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality of bond or ledger paper in the form and manner as approved by the secretary of state. To every sheet of petitioners' signatures shall be attached a

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full and correct copy of the measure so proposed by initiative petition; but such petition may be filed by the secretary of state in numbered sections for convenience in handling. Every sheet of petitioners' signatures upon referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded, and may be filed in numbered sections in like manner as initiative petitions. Not more than twenty (20) signatures on one (1) sheet shall be counted. Each signature sheet shall contain signatures of qualified electors from only one (1) county.

**History:** S.L. 1933, Ch. 210; S.L. 1988, Ch. 48; S.L., 2013, Ch 89; S.L. 2013, Ch.336

**NOTE ~~34-1804~~:** Qualifying petition must be signed by 20 registered electors with text of proposed initiative or referendum attached to be filed with the Secretary of State.

A copy of the petition is transmitted by the Secretary of State to the Attorney General for the issuance of a certificate of review.

The petition circulated for signatures must contain signatures from only 1 county and not more than 20 signatures on 1 sheet will be counted.

**34-1805. Sponsors to print petition — Number of signers required.** After the form of the initiative or referendum petition has been approved by the secretary of state as in sections ~~34-1801A~~ through ~~34-1822~~, *Idaho Code*, provided, the same shall be printed by the person or persons or organization or organizations under whose authority the measure is to be referred or initiated and circulated in the several counties of the state for the signatures of legal voters. Before such petitions shall be entitled to final filing and consideration by the secretary of state there shall be affixed thereto the signatures of legal voters equal in number to not less than six per cent (6%) of the qualified electors at the time of the last general election in each of at least eighteen (18) legislative districts; provided however, the total number of signatures shall be equal to or greater than six percent (6%) of the qualified electors of the state at the time of the last general election.

**History:** S.L. 1933, Ch. 210; S.L. 1997, Ch. 266; S.L. 2007, Ch. 202; S.L. 2013, Ch. 89

**NOTE ~~34-1805~~:** Number of qualified signatures required to be filed are based on 6% of the qualified voters of the state at the last general election not less than 6% of the qualified electors in each of at least 18 Legislative Districts must be included.

**34-1806. Binding of petition and signature sheets — Approved measures to be printed with session laws.** When any such initiative or referendum petition shall be offered for filing the secretary of state shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petitions. The secretary of state shall file and keep such petitions as official public records. The secretary of state shall cause every such measure so approved by the people to be printed with the general laws enacted by the next ensuing session of the state legislature with the date of the governor's proclamation declaring the same to have been approved by the people.

**History:** S.L. 1933, Ch. 210; S.L. 1988, Ch. 48

**NOTE ~~34-1806~~:** Signature sheets of qualifying petitions must be kept and become official records. Each measure approved by the people will be printed in the next edition of session laws along with the governor's proclamation.

**34-1807. Circulation of petitions - Verification of petition and signature sheets - Comparison of signatures with registration oaths and records – Certain petitions and signatures void.** Any person who circulates any petition for an initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

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State of Idaho  
County of \_\_\_\_\_ } s.s.

I, \_\_\_\_\_, being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name, address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of the county of \_\_\_\_\_.

Signature \_\_\_\_\_

Post office address \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public \_\_\_\_\_

Residing at \_\_\_\_\_

(Notary Seal)

In addition to said affidavit the county clerk shall carefully examine said petitions and shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho  
County of \_\_\_\_\_ } s.s.

To the honorable \_\_\_\_\_, County Clerk of \_\_\_\_\_ County,  
hereby certify that \_\_\_\_\_ signatures on this petition are those of qualified electors.

Signed \_\_\_\_\_  
County Clerk or Deputy.

(Seal of office)

The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

Any petition upon which signatures are obtained by a person not a resident of the state of Idaho and at least eighteen (18) years of age, shall be void. The definition of resident in section 34-107, *Idaho Code*, shall apply to the circulators of initiative and referendum petitions. In addition to being a resident, a petition circulator shall be at least eighteen (18) years of age.

**History:** S.L. 1933, Ch. 210; S.L. 1988, Ch. 48; S.L. 1997, Ch. 266; S.L. 1999, Ch. 47; S.L. 2013, Ch.89; S.L. 2013, Ch. 336

**NOTE 34-1807:** Each signature must be verified by the County Clerk(s) prior to being filed with the Secretary of State. The clerk attaches a certificate stating how many signatures are valid to each petition of 20 signatures and delivers verified petitions to the person from whom he received such petitions.

Note Section 34-1802 for verification deadlines.

It is no longer a requirement that the circulator be a registered voter. A circulator must, however, be a resident of the state and 18 years old.

## IDAHO CODE: TITLE 34, CHAPTER 18

**34-1808. Filing of petition — Mandate — Injunction.** If the secretary of state shall refuse to accept and file any petition for the initiative or for the referendum with the requisite number of signatures of qualified electors thereto attached, any citizen may apply, within ten (10) days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the Supreme Court within ten (10) days after a decision is rendered. The district court of the fourth judicial district of the state of Idaho in and for Ada County shall have jurisdiction in all cases of measures to be submitted to the qualified electors of the state at large.

**History:** S.L. 1933, Ch. 210; S.L. 1988, Ch. 48

**34-1809. Review of initiative and referendum measures by attorney general - Certificate of review prerequisite to assignment of ballot title - Ballot title - Judicial review.** (1) After receiving a copy of the petition from the secretary of state as provided in section ~~34-1804~~, *Idaho Code*:

- (a) The attorney general may confer with the petitioner and shall, within twenty (20) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate.
- (b) The recommendations of the attorney general shall be advisory only and the petitioner may accept or reject them in whole or in part.
- (c) The attorney general shall issue a certificate of review to the secretary of state certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. The certificate of review shall be available for public inspection in the office of the secretary of state.
- (2) Within fifteen (15) working days after the issuance of the certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the measure, as herein provided, with the secretary of state for assignment of a ballot title and the secretary of state shall thereupon submit to the attorney general two (2) copies of the measure filed.
  - (a) Within ten (10) working days after receiving copies of the petition, the attorney general shall provide ballot titles as provided for below and return one (1) copy of the petition to the secretary of state, with its ballot title.
  - (b) A copy of the ballot title as prepared by the attorney general shall be furnished by the secretary of state with the approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred.
  - (c) The ballot titles shall be used and printed on the covers of the petition when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures.
  - (d) The ballot title shall contain:
    - (i) Distinctive short title not exceeding twenty (20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition.
    - (ii) A general title expressing in not more than two hundred (200) words the purpose of the measure.
    - (iii) The ballot title shall be printed with the numbers of the measure on the official ballot.
  - (e) In making the ballot title the attorney general shall, to the best of his ability, give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure.
- (3) Any person dissatisfied with the ballot title or the short title provided by the attorney general for any measure, may appeal from his decision to the supreme court by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair.
  - (a) No appeal shall be allowed from the decision of the attorney general on a ballot title unless made within twenty (20) days after the ballot title is filed in the office of the secretary of state; provided however, that this section shall not prevent any later judicial proceeding to determine the sufficiency of such title, nor shall it prevent any judicial decision upon the sufficiency of such title.
  - (b) A copy of every such ballot title shall be served by the secretary of state upon the person offering or filing such initiative or referendum petition, or appeal. The service of the ballot title may be by mail, telegraph or facsimile and shall be made forthwith when it is received from the attorney general by the secretary of state.
  - (c) The supreme court shall thereupon examine said measure, hear argument, and in its decision thereon certify to the secretary of state a ballot title and a short title for the measure in accord with the intent of this section. The secretary of state shall print on the official ballot the title thus certified to him.

## IDAHO CODE: TITLE 34, CHAPTER 18

(4) Any qualified elector of the state of Idaho may, at any time after the attorney general has issued a certificate of review, bring an action in the supreme court to determine the constitutionality of any initiative.

**History:** S.L. 1933, Ch. 210; S.L. 1979, Ch. 106; S.L. 1988, Ch. 48; S.L. 1994, Ch. 400; S.L. 1997, Ch. 266; S.L. 2003, Ch. 147

**NOTE 34-1809:** The Attorney General may confer with the petitioner and will, within 20 working days after receipt, review the proposal for substantive import and recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate.

The recommendations of the Attorney General are advisory only and the petitioner may accept or reject them in whole or in part.

Within 15 working days after the issuance of the Certificate of Review, the petitioner, if he desires to proceed, with his sponsorship, informs the Secretary of State of his intent.

The Attorney General provides ballot titles, on the final proposal, within 10 working days. Any person dissatisfied with ballot title may appeal to Supreme Court within 20 days after ballot title is filed with Secretary of State.

Allows challenge of title and constitutionality of initiative in Courts.

### **34-1810. Printing and designation of ballot titles on official ballots.**

(1) The secretary of state, at the time he furnishes to the county clerks of the several counties certified copies of the names of candidates for state and district offices shall furnish to each of said county clerks a certified copy of the ballot titles and numbers of the several measures to be voted upon at the ensuing general election, and he shall use for each measure the ballot title designated in the manner herein provided.

(a) Such ballot title shall not resemble, so far as to probably create confusion, any such title previously filed for any measure to be submitted at that election.

(b) The ballot shall include a clear and concise statement as to the effect of a “**yes**” or “**no**” vote, prepared jointly by the attorney general and secretary of state.

(2) The secretary of state shall number the measures consecutively beginning with number (1), in the order in which the measures were finally filed with the secretary. The measures shall be designated on the ballot as a “**Proposition One**,” “**Proposition Two**,” et cetera.

**History:** S.L. 1933, Ch. 210; S.L. 1988, Ch. 48; S.L. 2003, Ch. 147

**NOTE 34-1810:** Secretary of State certifies copies of the ballot titles, statements as to the effect of a “yes” or “no” vote, and numbers of measures to be voted upon in the general election. Ballot measures are numbered consecutively beginning with number (1). These ballot titles will be certified on or before September 7.

**34-1811. Manner of voting — Procedure when conflicting measures approved.** The manner of voting upon measures submitted to the people shall be the same as is now or may be required and provided by law; no measure shall be adopted unless it shall receive an affirmative majority of the aggregate number of votes cast on such measure. If two (2) or more conflicting laws shall be approved by the people at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. If two (2) or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such amendment may not have received the greatest majority of affirmative votes.

**History:** S.L. 1933, Ch. 210

**NOTE 34-1811:** A majority of yes votes must be cast for measure to be adopted.

**34-1812. [Repealed - S.L. 1979, Ch. 135]**

## IDAHO CODE: TITLE 34, CHAPTER 18

**34-1812A. Arguments concerning initiative and referendum measures.** Any voter or group of voters may on or before July 20 prepare and file an argument, not to exceed five hundred (500) words, for or against any measure. Such argument shall not be accepted unless accompanied by the name and address or names and addresses of the person or persons submitting it, or, if submitted on behalf of an organization, the name and address of the organization and the names and addresses of at least two (2) of its principal officers.

If more than one (1) argument for or more than one (1) argument against any measure is filed within the time prescribed, the secretary of state shall select one (1) of the arguments for printing in the voters' pamphlets. In selecting the argument the secretary of state shall be required to give priority in the order named to the arguments of the following:

- (1) The proponent of the initiative or referendum petition.
- (2) Bona fide associations of citizens.
- (3) Individual voters.

**History:** S.L. 1979, Ch. 135

**NOTE 34-1812A:** Arguments for and against to be included in Voters' Pamphlet will not be more than 500 words and filed not later than July 20.

**34-1812B. Submission of rebuttal arguments.** When the secretary of state has received the arguments which will be printed in the voters' pamphlet, the secretary of state shall immediately send copies of the arguments in favor of the proposition to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor. The authors may prepare and submit rebuttal arguments not exceeding two hundred and fifty (250) words. The rebuttal arguments must be filed no later than August 1. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

**History:** S.L. 1979, Ch. 135

**NOTE 34-1812B:** Rebuttal arguments to be included in Voters' Pamphlet will not be more than 250 words and filed not later than August 1.

**34-1812C. Voters' pamphlet.** (1) Not later than September 25 before any regular general election at which an initiative or referendum measure is to be submitted to the people, the secretary of state shall cause to be printed a voters' pamphlet which shall contain the following:

- (a) A complete copy of the title and text of each measure with the number and form in which the ballot title thereof will be printed on the official ballot;
  - (b) A copy of the arguments and rebuttals for and against each state measure.
- (2) The secretary of state shall mail or distribute a copy of the voters' pamphlet to every household in the state.

Sufficient copies of the voters' pamphlet shall also be sent to each county clerk. The county clerk and the secretary of state shall make copies of the voters' pamphlet available upon request.

- (3) The voters' pamphlet shall be printed according to the following specifications:
  - (a) The pages of the pamphlet shall be not smaller than 6 x 9 inches in size;
  - (b) It shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in no less than 7-point type;
  - (c) It shall be printed on a quality and weight of paper which in the judgment of the secretary of state best serves the voters;
  - (d) If the material described in subsections (a) and (b) of this section is combined in a single publication with constitutional amendments, the entire publication shall be treated as a legal notice.

**History:** S.L. 1979, Ch. 135; S.L. 1984, Ch. 114

**NOTE 34-1812C:** The Voters' Pamphlet will be printed by the Secretary of State not later than September 25. Every household in the state will be delivered a copy of the Voters' Pamphlet. Sufficient copies of the Voters' Pamphlet are also sent to each County Clerk for distribution upon request.

## IDAHO CODE: TITLE 34, CHAPTER 18

**34-1813. Counting, canvassing and return of votes.** The votes on measures and questions shall be counted, canvassed and returned by the regular boards of judges, clerks and officers, as votes for candidates are counted, canvassed and returned, and the abstract made by the several county auditors of votes on measures shall be returned to the secretary of state on separate abstract sheets in the manner provided for abstract of votes for state and county officers. It shall be the duty of the secretary of state, in the presence of the governor, to proceed within thirty (30) days after the election, and sooner if the returns be all received, to canvass the votes given for each measure, and the governor shall forthwith issue his proclamation, giving the whole number of votes cast in the state for and against such measure and question, and declaring such measures as are approved by a majority of those voted thereon to be in full force and effect as the law of the state of Idaho from the date of said proclamation; provided, that if two (2) or more measures shall be approved at said election which are known to conflict with each other or to contain conflicting provisions he shall also proclaim which is paramount in accordance with the provisions of sections 34-1801 — 34-1822.

**History:** S.L. 1933, Ch. 210

**NOTE 34-1813:** Elections returns for measures are canvassed in the same manner as candidate returns. The measure becomes effective as law upon the governor's signing a proclamation declaring that the measure received a majority of yes votes.

**34-1814. Who may sign petition - Effect of wrongful signing - Penalty for wrongful signing.** Every person who is a qualified elector of the state of Idaho may sign a petition for the referendum or for the initiative for any measure which he is legally entitled to vote upon. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or any officer or person wilfully violating any provision of this statute, shall, upon conviction thereof be punished by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in the penitentiary not exceeding two (2) years, or by both such fine and imprisonment, in the discretion of the court before which such conviction shall be had. Any such wrongful signatures are null and void and shall not be counted as a qualified signature. Any person circulating a petition, who knows, or who in the exercise of reasonable care should know, that a signature is forged and who shall thereafter fail to strike through and thereby void such signature, and any person in a position of supervision of such person who suffers or permits a forged signature to remain on a petition shall pay a fine of not less than one thousand dollars (\$1,000) for each such signature.

**History:** S.L. 1933, Ch. 210; S.L. 1997, Ch. 266

**NOTE 34-1814:** Any registered voter may sign a single initiative petition once.

### **34-1814A. [Repealed - S.L. 1999, Ch. 47]**

**34-1815. False statements spoken or written concerning petition unlawful - Failure to disclose material provisions.** It shall be unlawful for any person to wilfully or knowingly circulate, publish or exhibit any false statement or representation, whether spoken or written, or to fail to disclose any material provision in a petition, concerning the contents, purport or effect of any petition mentioned in sections 34-1801A- through 34-1822, *Idaho Code*, for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such petition. It shall be unlawful for any person to solicit or obtain any signature on a petition without first showing the signer both the short title and the general title as defined in section 34-1809, *Idaho Code*, so that the signer has an opportunity to read them before signing the petition.

Any signature obtained without compliance with this section is null and void.

**History:** S.L. 1933, Ch. 210; S.L. 1997, Ch. 266

**NOTE 34-1815:** Pertaining to false information whether spoken or written while soliciting signatures on petition. Petition signer must be shown short and long title for reading before signing.

Any signature obtained without compliance to this section is null and void.

## IDAHO CODE: TITLE 34, CHAPTER 18

**34-1816. Filing petition with false signatures unlawful.** It shall be unlawful for any person to file in the office of any officer provided by law to receive such filing any petition mentioned in sections 34-1801 — 34-1822, to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto.

**History:** S.L. 1933, Ch. 210

**34-1817. Circulating petition with false, forged or fictitious names unlawful.** It shall be unlawful for any person to circulate or cause to be circulated any petition mentioned in sections 34-1801 — 34-1822, knowing the same to contain false, forged or fictitious names.

**History:** S.L. 1933, Ch. 210

**34-1818. False affidavit by any person unlawful.** It shall be unlawful for any person to make any false affidavit concerning any petition mentioned in sections 34-1801 — 34-1822, or the signatures appended thereto.

**History:** S.L. 1933, Ch. 210

**34-1819. False return, certification or affidavit by public official unlawful.** It shall be unlawful for any public official or employee knowingly to make any false return, certification or affidavit concerning any petition mentioned in sections 34-1801 — 34-1822, or the signatures appended thereto.

**History:** S.L. 1933, Ch. 210

**34-1820. Signing more than once or when not qualified unlawful.** It shall be unlawful for any person to knowingly sign his own name more than once to any petition mentioned in sections 34-1801 — 34-1822, or to sign his name to any such petition knowing himself at the time of such signing not to be qualified to sign the same.

**History:** S.L. 1933, Ch. 210

**34-1821. Felonious acts enumerated.** It shall be a felony for any person to offer, propose or threaten to do any act mentioned in this section of or concerning any petition mentioned in sections 34-1801 — 34-1822, for any pecuniary reward or consideration: (a) To offer, propose, threaten or attempt to sell, hinder or delay any petition or any part thereof or of any signatures thereon mentioned in sections 34-1801 — 34-1822; (b) To offer, propose, or threaten to desist, for a valuable consideration, from beginning, promoting or circulating any petition mentioned in sections 34-1801 — 34-1822, or soliciting signatures to any such petition; (c) To offer, propose, attempt or threaten in any manner or form to use any petition or power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

**History:** S.L. 1933, Ch. 210

**34-1822. Penalty for violations.** Any person, either as principal or agent, violating any of the provisions of sections 34-1801 — 34-1822 shall be punished upon conviction by imprisonment in the penitentiary or in the county jail not exceeding two (2) years, or by a fine not exceeding \$5000.00, or by both, excepting that imprisonment in the penitentiary and punishment by a fine shall be the only penalty for violation of any provision of section 34-1821.

**History:** S.L. 1933, Ch. 210

**34-1823. Severability.** In the event that any part of chapter 18, title 34, *Idaho Code*, shall for any reason be determined void or unenforceable in any part thereof, the remainder thereof shall remain in full force and effect.

**History:** S.L. 1997, Ch. 266

## Chapter 19: Congressional Districts

Sections 34-1901 through 34-1903 have been superseded and replaced by the Commission on Reapportionment.



## Chapter 20: Election Contests Other Than Legislative And State Executive Offices

**34-2001. Grounds of contest.** The election of any person to any public office, the location or relocation of a county seat, or any proposition submitted to a vote of the people may be contested:

1. For malconduct, fraud, or corruption on the part of the judges of election in any precinct, township or ward, or of any board of canvassers, or any member of either board sufficient to change the result.
2. When the incumbent was not eligible to the office at the time of the election.
3. When the incumbent has been convicted of felony, unless at the time of the election he shall have been restored to civil rights.
4. When the incumbent has given or offered to any elector, or any judge, clerk or canvasser of the election, any bribe or reward in money or property for the purpose of procuring his election, or has committed any violation as set out in chapter 23, title 18, *Idaho Code*.
5. When illegal votes have been received or legal votes rejected at the polls sufficient to change the result.
6. For any error in any board of canvassers in counting votes or in declaring the result of the election, if the error would change the result.
7. When the incumbent is in default as a collector and custodian of public money or property.
8. For any cause which shows that another person was legally elected.

**History:** 1890-1981, p. 57, section 132; reen. 1899, p. 33, section 119; reen. R.C. & C.L., section 5026; C.S., section 7274; I.C.A., section 33-1701; S.L. 1982, Ch. 209

**34-2001A. Bond election and mill levy contests — Time for filing — Validation of elections and bonds.** A. The provisions of this chapter with respect to the contest of elections shall be applicable to bond elections conducted by cities, counties, school districts and water and sewer districts, and to elections conducted by school districts for mill levy increases as authorized by sections 33-802, 33-803 and 33-804, *Idaho Code*. Any such contest shall be regarded as one contesting the outcome of the vote on the bond or mill levy proposition, rather than election to office, and the public entity calling the election rather than a person declared to have been elected to office, shall be regarded as the defendant.

B. When the validity of any bond or mill levy election is contested upon any of the grounds enumerated in section 34-2001, *Idaho Code*, or upon any other grounds whatsoever the plaintiff or plaintiffs must, within forty (40) days after the votes are canvassed and the results thereof declared, file in the proper court a verified written complaint setting forth, in addition to the other requirements of this chapter, the following:

- (1) The name of the party contesting the bond or mill levy election, and that he is an elector of the public entity conducting the bond or mill levy election.
- (2) The proposition or propositions voted on at the election which are contested.
- (3) The particular grounds of such contest.

C. No such election contest shall be maintained and no bond or mill levy election shall be set aside or held invalid unless a complaint is filed as permitted hereunder within the period prescribed in this section. As to bond or mill levy elections which have been held prior to the effective date of this act, no such contest shall be maintained wherein it is alleged that the election should be set aside or held on any ground enumerated in section 34-2001, *Idaho Code*, or on any other ground, unless such election contest be filed as herein provided within forty (40) days from and after the effective date of this act.

D. All bond elections conducted by cities, counties, school districts and water and sewer districts prior to the effective date of this act, and all proceedings had in the authorization and issuance of the bonds authorized thereat, are hereby validated, ratified and confirmed and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which is being contested at the time this act takes effect, or any election the legality of which is contested within the forty (40) day period from and after the effective date of this act.

**History:** I.C., section 34-2001A, as added by 1969, Ch. 208; S.L. 1976, Ch. 291

**NOTE 34-2001A:** Contest of Bond or mill levy elections must be filed in the proper court within 40 days after the votes are canvassed.

**34-2002. Term incumbent defined.** The term “**incumbent**” in this chapter means the person whom the canvassers declare elected.

**History:** 1890-1891, p. 57, section 133; reen. 1899, p. 33, section 120; reen. R.C. & C.L., section 5027; C.S., section 7275; I.C.A., section 33-1702

## IDAHO CODE: TITLE 34, CHAPTER 20

**34-2003. Misconduct of judges.** When the misconduct complained of is on the part of the judges of election, it shall not be held sufficient to set aside the election, unless the vote of the precinct, township or ward would change the result as to that office.

**History:** 1890-1891, p. 57, section 134; reen. 1899, p. 33, section 121; reen. R.C. & C.L., section 5028; C.S., section 7276; I.C.A., section 33-1703

**34-2004. Jurisdiction — Contests over judicial offices.** The Supreme Court shall hear and determine contests of the election of judges of the Supreme Court and appellate court and judges of the district courts, and in case they shall disagree, the governor shall act with them in determining the contest, but no judge of the Supreme Court shall sit upon the hearing of any case in which he is a party. The appropriate district court shall hear and determine contests of the retention election of judges of the magistrate courts.

**History:** 1890-1891, p. 57, section 137; am. 1899, p. 33, section 124; reen. R.C. & C.L., section 5029; C.S., section 7277; I.C.A., section 33-1704; S.L. 1982, Ch. 209

**NOTE 34-2004:** Jurisdiction over judicial offices is in the Supreme Court, except for Magistrates where District Court has jurisdiction.

**34-2005. Jurisdiction — Removal of county seats and special questions.** The district courts of the respective counties shall hear and determine contests of election in regard to the removal of county seats, and in regard to any other subject which may by law be submitted to the vote of the people of the county, and the proceedings therein shall be conducted as near as may be hereinafter provided for contesting the election of county officers.

**History:** 1890-1891, p. 57, section 138; reen. 1899, p. 33, section 125; reen. R.C. & C.L., section 5030; C.S., section 7278; I.C.A., section 33-1705

**34-2006. Jurisdiction — County and precinct officers.** The district courts shall hear and determine contests of all other county, township and precinct officers, and officers of the cities and incorporated villages within the county.

**History:** 1890-1891, p. 57, section 139; reen. 1899, p. 33, section 126; reen. R.C. & C.L., section 5031; C.S., section 7279; I.C.A., section 33-1706

**NOTE 34-2006:** Jurisdiction over county questions, county, precinct and municipal offices - District Court.

**34-2007. Who may contest elections.** The election of any person declared elected to any office, other than executive state officers and members of the legislature, may be contested by any elector of the state, judicial district, county, township, precinct, city or incorporated village in and for which the person is declared elected.

**History:** 1890-1891, p. 57, section 148; reen. 1899, p. 33, section 135; reen. R.C. & C.L., section 5032; C.S., section 7280; I.C.A., section 33-1707

**NOTE 34-2007:** Any elector of the contested candidate's voting area for which the person is declared elected may contest the election. Example: County Clerk's election is contested.

Any registered voter within the county may contest the clerk's election.

**34-2008. Complaint and security for costs.** The contestants shall file in the proper court, within twenty (20) days after the votes are canvassed, a complaint setting forth the name of the contestant, and that he is an elector competent to contest such election; the name of the incumbent, the office contested, the time of the election, and the particular causes of contest, which complaint shall be verified by the affidavit of the contestant, that the causes set forth are true as he verily believes. The contestant must also file a bond, with security to be approved by the clerk of the court or district judge, as the case may be, conditioned to pay all costs in case the election be confirmed, the complaint dismissed, or the prosecution fail.

**History:** 1890-1891, p. 57, section 149; reen. 1899, p. 33, section 136; reen. R.C. & C.L., section 5033; C.S., section 7281; I.C.A., section 33-1708

**NOTE 34-2008:** Contestants file within 20 days after the votes are canvassed. Contestant must also file a bond conditioned to pay all costs.

## IDAHO CODE: TITLE 34, CHAPTER 20

**34-2009. Complaint — Specific allegations.** When the reception of illegal or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, if known, with the precinct, township or ward where they voted or offered to vote, shall be set forth in the complaint.

**History:** 1890-1891, p. 57, section 150; reen. 1899, p. 33, section 137; reen. R.C. & C.L., section 5034; C.S., section 7282; I.C.A., section 33-1709

**NOTE 34-2009:** If the contest alleging the reception of illegal or rejection of legal votes, the names of the person(s) being contested must be set forth in the complaint.

**34-2010. Issuance of summons.** Upon the filing of such complaint summons shall issue against the person whose office is contested, as prescribed in the Idaho Rules of Civil Procedure.

**History:** 1890-1891, p. 57, section 151; reen. 1899, p. 33, section 138; reen. R.C. & C.L., section 5035; C.S., section 7283; I.C.A., section 33-1710; S.L. 1982, Ch. 209

**NOTE 34-2010:** The contested elected official is issued a summons and complaint.

**34-2011. Time for trial.** The cause shall stand for trial at the expiration of thirty (30) days from the time of service of the summons and complaint, if the court shall then be in session; otherwise, on the first day of the next term thereafter.

**History:** 1890-1891, p. 57, section 152; reen. 1899, p. 33, section 139; reen. R.C. & C.L., section 5036; C.S., section 7284; I.C.A., section 33-1711

**34-2012. Postponement of trial.** The trial shall proceed at the time appointed, unless postponed for good cause shown by affidavit, the terms of which postponement are in the discretion of the court.

**History:** 1890-1891, p. 57, section 153; reen. 1899, p. 33, section 140; reen. R.C. & C.L., section 5037; C.S., section 7285; I.C.A., section 33-1712

**34-2013. Procedure in general.** The proceedings shall be held according to the Idaho Rules of Civil Procedure so far as practicable, but shall be under the control and direction of the court, which shall have all the powers necessary to the right hearing and determination of the matter; to compel the attendance of witnesses, swear them and direct their examination; to punish for contempt in its presence or by disobedience to its lawful mandate; to adjourn from day to day; to make any order concerning immediate costs, and to enforce its orders by attachment. It shall be governed by the rules of law and evidence applicable to the case.

**History:** 1890-1891, p. 57, section 154; reen. 1899, p. 33, section 141; reen. R.C. & C.L., section 5038; C.S., section 7286; I.C.A., section 33-1713; S.L. 1982, Ch. 209

**34-2014. Testimony — Subpoena for witnesses.** The testimony may be oral, or by depositions taken pursuant to the Idaho Rules of Civil Procedure. Subpoenas for witnesses may be issued pursuant to the Idaho Rules of Civil Procedure.

**History:** 1890-1891, p. 57, section 155; reen. 1899, p. 33, section 142; reen. R.C. & C.L., section 5039; C.S., section 7287; I.C.A., 33-1714; S.L. 1982, Ch. 209

**34-2015. Amendments.** The proceedings shall not be dismissed for want of form, if the particular causes of contest are alleged with such certainty as will sufficiently advise the incumbent of the real grounds of contest. If any part of the causes are held insufficient they may be amended, but the incumbent will be entitled to an adjournment if he state on oath that he has a matter to answer to the amended causes, for the preparation of which he needs further time. Such adjournment shall be upon such terms as the court deems reasonable; but if all the causes are held insufficient, and an amendment is asked the adjournment shall be at the cost of the contestant. If no amendment is asked for or made, or in case of entire failure to prosecute, the proceedings may be dismissed.

**History:** 1890-1891, p. 57, section 156; reen. 1899, p. 33, section 143; reen. R.C. & C.L., section 5040; C.S., section 7288; I.C.A., section 33-1715

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**34-2016. Form and service of process.** The style, form and manner of service of process and papers, and the fees of officers and witnesses shall be the same as in other cases in the court where the cause is tried.

**History:** 1890-1891, p. 57, section 157; reen. 1899, p. 33, section 144; reen. R.C. & C.L., section 5041; C.S., section 7289; I.C.A., section 33-1716

**NOTE 34-2016:** The party contesting the election must submit, at least 3 days before trial, the number of illegal votes and by whom given. The testimony of an elector whose qualifications are being questioned cannot be used against the elector in any criminal action.

**34-2017. Voters to testify as to qualifications.** (a) The court may require any person called as a witness, who voted at such election, to answer touching his qualifications as a voter; and if he was not a qualified voter in the county where he voted, then to answer for whom he voted; and if the witness answer such questions no part of his testimony on that trial shall be used against him in any criminal action.

(b) No testimony shall be received as to any illegal votes unless the party contesting the election delivers to the opposing party at least three (3) days before trial, a written list of the number of illegal votes and by whom given, which he intends to prove on such trial. No testimony shall be received as to any illegal votes, except as to such as are specified in this list.

**History:** 1890-1891, p. 57, section 158; reen. 1899, p. 33, section 145; reen. R.C. & C.L., section 5042; C.S., section 7290; I.C.A., section 33-1717; S.L. 1982, Ch. 209

**34-2018. Inspection of ballots and poll books.** If an inspection of the ballots or poll books of any election district in this state shall become necessary for the determination of any election contest before any court, the presiding judge thereof may, by order naming the district or districts, require the proper officer to procure the same from the county auditor, or other person in whose possession or custody the same may be, and such clerk or person shall deliver the same to said officer, who shall deliver them unopened to such presiding judge.

**History:** 1890-1891, p. 57, section 159; reen. 1899, p. 33, section 146; reen. R.C. & C.L., section 5043; C.S., section 7291; I.C.A., section 33-1718

**34-2019. Ballots and poll books — Return to county auditor.** The presiding officer shall open and inspect the same in open court, in the presence of the parties or their attorneys, and immediately after such inspection shall again seal them in an envelope and return them, by mail or otherwise, to the office of the county auditor in which they were at first required to be filed.

**History:** 1890-1891, p. 57, section 160; reen. 1899, p. 33, section 147; reen. R.C. & C.L., section 5044; C.S., section 7292; I.C.A., section 33-1719

**34-2020. Liability for costs.** (a) The contestant and the incumbent are liable to the officers and witnesses for the costs made by them respectively. But if the election be confirmed, or the complaint be dismissed, or the prosecution fail, judgment shall be rendered against the contestant for costs, and if the judgment be against the incumbent, or the election be set aside, it shall be against him for costs.

(b) If the election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the returns, the contest costs shall be a charge against the county or political subdivision where the election was held.

**History:** S.L. 1890-1891, p. 57, section 161; reen. 1899, p. 33, section 148; reen. R.C. & C.L., section 5045; C.S., section 7293; I.C.A., section 33-1720; S.L. 1982, Ch. 209

**NOTE 34-2020:** Liability of costs: If election is confirmed - contestant pays. If the election is set aside - the incumbent pays. If officials are in error - the political subdivision pays.

**34-2021. Form of judgment.** The judgment of the court in cases of contested election shall confirm or annul the election according to the right of the matter; or, in case the contest is in relation to the election of some person to an office, shall declare as elected the person who shall appear to be duly elected or, in the alternative, order the office to be filled according to chapter 9, title 59, *Idaho Code*, or order a new election to be held at a time and place as determined by the court.

**History:** 1890-1891, p. 57, section 162; reen. 1899, p. 33, section 149; reen. R.C. & C.L., section 5046; C.S., section 7294; I.C.A., section 33-1721; S.L. 1982, Ch. 209

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**34-2022. Determination of tie vote.** If it appears that two (2) or more persons have—or would have had if the legal ballots cast or intended to be cast for them had been counted—the highest and an equal number of votes for the same office, the persons receiving such votes shall decide by lot, in such manner as the court shall by written order direct, which of them shall be declared duly elected, and the judgment shall be entered accordingly.

**History:** 1890-1891, p. 57, section 163; reen. 1899, p. 33, section 150; reen. R.C. & C.L., section 5047; C.S., section 7295; I.C.A., section 33-1722

**NOTE 34-2022:** Tie vote after contest - decided by the courts.

**34-2023. Order for possession.** When either the contestant or incumbent shall be in possession of the office by holding over, or otherwise, the court shall, if the judgment be against the party so in possession of the office and in favor of his antagonist, issue an order to carry into effect the judgment of the court, which order shall be under the seal of the court, and shall command the sheriff of the county to put the successful party into possession of the office without delay, and to deliver to him all books and papers belonging to the same; and the sheriff shall execute such order as other writs.

**History:** 1890-1891, p. 57, section 164; reen. 1899, p. 33, section 151; reen. R.C. & C.L., section 5048; C.S., section 7296; I.C.A., section 33-1723

**34-2024. Election declared void.** When the person whose election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes shall not be declared elected, but the election shall be declared void.

**History:** 1890-1891, p. 57, section 165; reen. 1899, p. 33, section 152; reen. R.C. & C.L., section 5049; C.S., section 7297; I.C.A., section 33-1724

**NOTE 34-2024:** When an election is declared void, the person receiving the next highest number of votes is not declared elected.

**34-2025. Appeal and supersedeas.** (a) The party against whom judgment is rendered in cases tried in the district court may appeal to the Supreme Court, and if the appellant be in possession of the office, such appeal shall not supersede the execution of the judgment of the court, as provided in the preceding section, unless he give a bond with security, to be approved by the court, in a sum to be fixed by the court, and which shall be at least double the probable compensation of such officer for six (6) months, which bond shall be conditioned that he will prosecute his appeal without delay, and that if the judgment appealed from be affirmed he will pay over to the successful party all compensation received by him while in possession of said office after the judgment appealed from was rendered, and such bond shall contain the express consent that judgment may be rendered against the sureties on the appeal as provided in the following section.

(b) All appeals to the Supreme Court shall be brought within ten (10) days of the judgment by the district court.

**History:** 1890-1891, p. 57, section 166; reen. 1899, p. 33, section 153; reen. R.C. & C.L., section 5050; C.S., section 7298; I.C.A., section 33-1725; S.L. 1982, Ch. 209

**NOTE 34-2025:** The party against whom judgment is rendered in cases tried in the district court may appeal to the Supreme Court within 10 days of the judgment.

**34-2026. Judgment of affirmance.** If upon the appeal the judgment be affirmed, the appellate court shall render judgment against the appellant and the sureties on his bond, or either of them, for the amount which the appellee is entitled to recover from the appellant on account of such contest, together with the costs; but in such case the sureties, or either of them, shall be entitled to produce and examine witnesses concerning the amount of such recovery.

**History:** 1890-1891, p. 57, section 167; reen. 1899, p. 33, section 154; reen. R.C. & C.L., section 5051; C.S., section 7299; I.C.A., section 33-1726

**34-2027. Cost of bond on appeal.** If upon appeal the appellant shall not be in possession of the office, he shall give bond, with security to be approved by the court where the judgment is rendered, conditioned to pay all costs that may be adjudged against him upon such appeal.

**History:** 1890-1891, p. 57, section 168; reen. 1899, p. 33, section 155; reen. R.C. & C.L., section 5052; C.S., section 7300; I.C.A., section 33-1727

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**34-2028. Contest of nomination at primaries.** A candidate at a primary election may contest the nomination of any candidate for the same office based upon the grounds as set out in this chapter.

**History:** S.L. 1982, Ch. 209

**34-2029. Jurisdiction over primary contest.** The district court in the respective county in which the alleged error or omission occurred shall be the court in which jurisdiction shall rest.

**History:** S.L. 1982, Ch. 209

**34-2030. Filing of affidavit.** A candidate wishing to contest a primary election shall file an affidavit with the appropriate court within five (5) days of the completion of the canvass of the election. The affidavit shall set forth information as required in section [34-2008](#), *Idaho Code*. The affidavit shall be served on all necessary parties in the same manner as a complaint and summons are served pursuant to the Idaho Rules of Civil Procedure.

**History:** S.L. 1982, Ch. 209

**NOTE [34-2030](#):** A primary contest must be filed within 5 days of the completion of the canvass of election.

**34-2031. Security for costs.** Upon filing of the affidavit the contestant shall file with the court a bond, in the amount of five hundred dollars (\$500), to be used to pay costs of the contestee in the event the primary election be confirmed or the prosecution fail.

**History:** S.L. 1982, Ch. 209

**NOTE [34-2031](#):** Contestant must file a \$500 bond with court.

**34-2032. Fraud or error by the election official.** If the primary election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the election returns, the contest costs shall be a charge against the county or city where the election was held.

**History:** S.L. 1982, Ch. 209

**NOTE [34-2032](#):** If election is set aside due to an administrative error, the county would be charged with cost of contest.

**34-2033. Discovery.** The court may order the production of such evidence as it deems necessary for the proper disposition of the primary contest pursuant to the Idaho Rules of Civil Procedure. The election contest shall be given priority on the court's calendar.

**History:** S.L. 1982, Ch. 209

**34-2034. Remedies.** The court shall render an opinion in a primary contest as soon as is reasonably possible and shall prescribe such remedies as provided in this chapter as it deems just.

**History:** S.L. 1982, Ch. 209

**34-2035. Appeals.** (a) In primary election contests, the party against whom judgment is rendered on cases filed in the district court may appeal to the Supreme Court. The appeal shall be taken within ten (10) days of the judgment by the district court.

(b) The Supreme Court shall give the primary contest appeal priority on its calendar.

**History:** S.L. 1982, Ch. 209

**NOTE [34-2035](#):** An appeal to the Supreme Court must be filed within 10 days of the District Court judgment.

**34-2036. Cost on appeal.** The appellant shall file a bond sufficient to cover the cost of appeal of a primary contest. Costs shall be awarded to the prevailing party on appeal. The amount of the bond on appeal shall be set by the court.

**History:** S.L. 1982, Ch. 209

**NOTE [34-2036](#):** Appellant must file bond to cover cost - costs to be awarded to prevailing party.

## Chapter 21: Election Contests Act

**34-2101. Short title — Intent.** (1) This chapter shall be known and may be cited as the “**Election Contests Act.**”

(2) The purpose of this act is to simplify and clarify the laws governing election contests of legislative seats and election contests for all officers of the executive department.

**History:** S.L. 2017, Ch. 293

**34-2102. Definitions.** For the purposes of this chapter, the following terms have the following meanings:

- (1) “**Body**” means the Idaho senate or the Idaho house of representatives or both.
- (2) “**Contestee**” means the individual against whom the contest of election is filed.
- (3) “**Contestor**” means the individual who files the contest of election.
- (4) “**Elector**” has the same meaning as “**qualified elector**” provided in section 34-104, *Idaho Code*.
- (5) “**Eligible for the office**” means the qualifications of members provided in section 34-614, *Idaho Code*.
- (6) “**Individual**” means a natural person and not an artificial person such as a corporation, partnership, or other entity created by law.
- (7) “**Legislature**” means the Idaho senate or the Idaho house of representatives or both.
- (8) “**Office**” means any senate member, house of representative member, executive office holder, or all.
- (9) “**Parties**” means the contestor and the contestee.
- (10) “**Party**” means the contestor or the contestee.
- (11) “**Presiding officer**” means the Idaho senate president pro tempore or the speaker of the Idaho house of representatives. In the event the contestee or the contestor is the presiding officer, then the next ranking member of majority leadership who is able and willing serves as presiding officer. In the event the contestee or the contestor is an office holder in the executive department, then both the Idaho senate president pro tempore and the speaker of the Idaho house of representatives will serve as presiding officers.

**History:** S.L. 2017, Ch. 293

**34-2103. Jurisdiction — Contests over legislative offices — Contests over executive offices.**

- (1) Contests over legislative offices.
  - (a) The senate will hear and determine contests of the election of its members.
  - (b) The house of representatives will hear and determine contests of the election of its members.
- (2) Contests over executive offices. The legislature, in joint meeting, will hear and determine cases of contested election for all officers of the executive department. The meeting of the two (2) bodies to decide upon those elections will be held in the house of representatives, and the speaker of the house of representatives will preside.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2103:** Each legislature body hears and determines contests for their respective members.

Both legislature bodies hear and determine contests for executive department offices.

**34-2104. Grounds of contest.** The election of any person to any legislative or state executive office may be contested:

- (1) For misconduct, fraud or corruption as provided in section 34-2107, *Idaho Code*, on the part of one (1) or more judges of election in any precinct or township, or on the part of one (1) or more members of any board of canvassers sufficient to change the result;
- (2) When, in an election contest regarding a legislative seat, the contestee was not eligible for the office at the time of the election as provided in section 34-614, *Idaho Code*;
- (3) When, in an election contest regarding an executive office, the contestee was not eligible for the office at the time of the election as provided in chapter 6 of this title;
- (4) When the contestee has been convicted of one (1) or more felonies, unless at the time of the election his civil rights have been restored;
- (5) When the contestee has been charged with giving or offering to any elector, clerk, or canvasser of the election, or to any judge as provided in section 34-2107, *Idaho Code*, any bribe or reward in money or property, for the purpose of procuring his election;
- (6) When the contestee has been charged with violating one (1) or more of the provisions found in sections 18-2301 through 18-2313, *Idaho Code*;
- (7) When illegal votes have been received or legal votes rejected at the polls sufficient to change the result;

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(8) For any error in any board of canvassers in counting votes or in declaring the result of the election, if the error would change the result;

(9) When the contestee holds the office of the state treasurer or the state controller as provided in section 1, article IV, of the constitution of the state of Idaho, and is in default as a collector and custodian of public money or property;

(10) For any other cause or allegation which, if sustained, would show that a person other than the contestee was the person duly elected to the office in question.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2104:** All contests of election must be based on a legitimate grounds of contest.

**34-2105. Legislative rules.** In addition to the provisions of this chapter, the legislature may provide:

(1) Senate rules regarding senate election contests.

(2) House of representative rules regarding house of representatives election contests.

(3) Joint rules regarding executive department election contests.

In the event the provisions of this chapter are inconsistent with legislative rules, the legislative rules control.

**History:** S.L. 2017, Ch. 293

**34-2106. Contest for legislative offices — Exception regarding presiding officers.** Notwithstanding the provisions of section 34-2101 through 34-2119, *Idaho Code*, in the event a presiding officer occupies the legislative seat that is the subject of an election contest, the majority leader or the next available and willing member of majority leadership of the appropriate body must serve as the presiding officer for the purpose of this chapter.

**History:** S.L. 2017, Ch. 293

**34-2107. Misconduct of election judges — When sufficient to set aside an election.** Misconduct on the part of the judges of election is sufficient to set aside the election if the misconduct would change the result regarding that office.

**History:** S.L. 2017, Ch. 293

**34-2108. Notice of contest — Legislative — Executive department — Grounds — Service — Anticipated discovery.**

(1) Legislative contest. Within twenty (20) days after the election, whenever any elector of a legislative district chooses to contest the election of any member of the legislature from that district, the elector must give written notice of the contest and leave a copy of the notice of contest with the office of the secretary of state. The elector must make reasonable efforts to provide notice of the contest to:

(a) The person whose election the elector is contesting by serving the notice at the address of the person reflected on his declaration of candidacy filed with the office of the secretary of state; and

(b) The secretary of the senate, if the election contest concerns an Idaho senate seat, or the chief clerk of the house of representatives, if the election contest concerns an Idaho house of representatives seat, at the statehouse in Boise.

(2) Executive department contest. Within twenty (20) days after the election, whenever any elector of this state chooses to contest the validity of the election of any of the officers of the executive department of the state, the elector must give written notice of the contest and leave a copy of the notice of contest with the office of the secretary of state. The elector must make reasonable efforts to provide written notice of the contest to:

(a) The person whose election the elector is contesting by serving the notice at the address that appears on the person's declaration of candidacy filed with the office of the secretary of state;

(b) The chief clerk of the house of representatives and the secretary of the senate at the statehouse in Boise.

(3) Notification by secretary of state to legislature. On or before the first day of the legislature's organizational session, the secretary of state must provide a copy of the notice of election contest to:

(a) The secretary of the senate, if the election contest concerns an Idaho senate seat.

(b) The chief clerk of the house of representatives, if the election contest concerns an Idaho house of representatives seat;

(c) The secretary of the senate and the chief clerk of the house of representatives, if the election contest concerns an officer of the executive department.

(4) Grounds for contest. For any contest of election provided for in subsection (1) or (2) of this section, the notice of contest of election must include one (1) or more grounds upon which the election will be contested, as provided in section 34-2104, *Idaho Code*.

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(5) Anticipated discovery. In the notice of contest, the parties must identify anticipated initial discovery, including witnesses to be deposed and the anticipated date and location of depositions. Relevant additional discovery will be allowed by the parties.

(6) Notice of contest may not be amended. A notice of contest required by this section may not be amended subsequent to the expiration of the twenty (20) days' notice required in subsection (1) and (2) of this section.

**History:** S.L. 2017, Ch 293

**NOTE 34-2108:** Any elector of the state may contest an executive office. Any elector of the respective legislative district may contest a member of the legislature.

Contestors must give written notice of contest to the secretary of state and must make reasonable effort to notify all other parties effected.

**34-2109. Summary dismissal.** (1) If the notice of contest fails to recite any grounds required by section 34-2104, *Idaho Code*, or fails to identify anticipated discovery as provided in section 34-2108, *Idaho Code*, or the contestor fails to timely post bond as provided in section 34-2118, *Idaho Code*, or the contestor otherwise fails to comply with the provisions of this chapter in a material way, the notice of contest may be stayed or dismissed as provided in subsections (3) and (4) of this section.

(2) Failure to advance contest. If the contestor fails to advance the contest due to death, incapacity, failure to comply with orders of the presiding officer, relocation out of the contested legislative district, or failure to advance the contest, then the presiding officer may enter a written order staying the proceedings. The provisions of subsections (3) and (4) of this section will then apply.

(3) Stay of proceedings. The presiding officer may enter a written order staying the proceedings if any of the instances provided in subsection (1) or (2) of this section apply. Upon issuance of the order, discovery in the contest must cease. The order must state the basis for the stay.

(4) Ratification or rejection. On or after the second day of the next regular session of the legislature, the body must either accept or reject the presiding officer's stay.

(a) A vote by the body to accept the order constitutes a dismissal of the contest.

(b) A vote by the body to reject the order constitutes a reversal of the order. Following the rejection of the order, the presiding officer or his designee must issue an order to the parties providing a schedule for reasonable discovery and hearing. The order must provide reasonable time for the parties to develop their record, not to exceed twenty (20) days. The order must define how and when the record must be completed and delivered to the office of the secretary of state and when the secretary of state will deliver the contest papers to the appropriate body.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2109:** The contest may be stayed or dismissed for no grounds or failure to advance the contest.

The presiding officer may enter a written stay that is then accepted or rejected by the body of legislature.

**34-2110. Examination of witnesses — Subpoenas.** Unless otherwise provided for in legislative rule, the following provisions apply:

(1) Examination of witnesses. Unless otherwise ordered by the presiding officer or his designee, any party may take the testimony of any person by deposition upon oral examination pursuant to the provisions of the Idaho rules of civil procedure. Depositions must be transcribed in writing. Any other form of deposition must be approved by the presiding officer or his designee. All testimony and discovery must be completed on or before December 29 following the election. The completed record must be delivered to the office of the secretary of state no later than the close of business on the next business day following December 29.

(2) (a) Subpoenas and subpoena duces tecum. An election contest held pursuant to the provisions of this chapter is not a judicial proceeding. The principles of rule 45 of the Idaho rules of civil procedure, however, must be used as a framework for the form, content, issuance and service of subpoenas. Every subpoena and subpoena duces tecum must reasonably approximate the form found in appendix B of the Idaho rules of civil procedure.

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(b) Unless prevented by sickness or unavoidable necessity, any person who has been summoned in the manner provided for in this section and refuses or neglects to attend and testify:

- (i) Forfeits the sum of twenty dollars (\$20.00), to be recovered by the party at whose instance the subpoena was issued; and
- (ii) Is guilty of a misdemeanor.

(c) Every witness who provides testimony pursuant to subpoena provided for in this chapter is entitled to receive the witness fees as allowed under the Idaho rules of civil procedure.

**History:** S.L. 2017, Ch. 293

**34-2111. Testimony — How taken, certified and preserved.** The testimony by deposition upon oral examination must be taken and preserved pursuant to the provisions of the Idaho rules of civil procedure. The deposition record must be entitled: “**Deposition taken in the matter of the contest of the election of [INSERT NAME OF CONTESTEE HERE] to the office of ....**,” and be directed to the secretary of state, who must preserve the same, until the meeting of the legislature. Any testimony taken pursuant to this section must be filed with the secretary of state. Upon request of a presiding officer, the secretary of state must provide copies of depositions to the requesting presiding officer in a timely manner, prior to the time established in section 34-2114, *Idaho Code*.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2111:** Testimony of witnesses will be preserved by secretary of state until the legislature convenes.

**34-2112. Production of papers — Refusal or neglect to produce a misdemeanor.** The presiding officer has power to require the production of papers. Any person who refuses or neglects to produce and deliver any paper or papers in his possession pertaining to the election or, in case they be official papers, refuses or neglects to produce and deliver certified or sworn copies of the same shall be guilty of a misdemeanor.

**History:** S.L. 2017, Ch. 293

**34-2113. Examination of poll books and ballots.** (1) Except as provided in subsection (2) of this section, if, at the time of taking depositions to be used in contested election, the notice of contest alleges that it is necessary for the determination of the contest that the ballots or the poll books of any election district or districts should be inspected, then, on the request of either party to the contest, the presiding officer may issue an order requiring the county auditor, or other person in whose custody or possession the ballots or poll books may be, naming the district or districts mentioned in the notice, to deliver them to the person or persons issuing the order. The officer or officers must transmit the ballots or poll books to the secretary of state, who must preserve the same unopened until the meeting of the legislature.

(2) Any order issued pursuant to subsection (1) of this section must not be executed until after the time has lapsed for the filing of:

- (a) An election contest provided for in chapter 20 of this title; or
- (b) A recount filed as provided for in chapter 23 of this title.
- (c) (i) If more than one (1) election contest is filed pursuant to chapter 20 or 21 of this title that implicate the same ballots or poll books, or part of the same ballots or poll books, the office of the secretary of state and the appropriate county auditor, or other person in whose custody or possession the ballots or poll books may be, must agree to a process for the examination of ballots or poll books that reasonably accommodates each contest filed.
- (ii) If one (1) or more election contests are filed pursuant to chapter 20 or 21 of this title and one (1) or more recounts of ballots are filed pursuant to chapter 23 of this title, and if the election contest and the recounts of ballots implicate the same ballots or poll books, or part of the same ballots or poll books, the office of the secretary of state, the office of the attorney general and the appropriate county auditor or other person in whose custody or possession the ballots or poll books may be must agree to a process for the examination of ballots or poll books that reasonably accommodates each contest filed and each recount of ballots filed.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2113:** Poll books and ballots may be procured from the County Clerk whose possession they are in to be delivered to the presiding officer. Immediately after inspection such items will be returned to the office from which they were on file.

If more than one contest implicates the same poll books and ballots, the secretary of state and the auditor must agree on a process, working with the attorney general to establish a process that reasonably accommodates each contest and recount filed.

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**34-2114. Contest papers delivered to presiding officers.** (1) Senate election contests. On the second day of the next regular session of the legislature, the secretary of state must deliver to the presiding officer of the senate all papers regarding a contested election of any member of the senate.

(2) House of representative election contests. On the second day of the next regular session of the legislature, the secretary of state must deliver to the presiding officer of the house of representatives all papers regarding a contested election of any member of the house of representatives.

(3) Executive department election contests. On the second day of the next regular session of the legislature, the secretary of state must deliver to the speaker of the house of representatives all papers regarding a contest of elections of executive officers. The senate president pro tempore, or his designee, must attend the house of representatives during its receipt of the contest papers.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2114:** On the 2nd day of the regular session of the legislature, the secretary of state delivers all papers relating to contested elections to the appropriate presiding officer(s).

**34-2115. Notice of receiving papers.** (1) Senate election contest. On the day of the receipt by the presiding officer of the senate, or his designee, of papers relating to contested elections, the presiding officer, in the appropriate order of business, must give notice to the senate of receipt of the papers.

(2) House of representatives election contest. On the day of the receipt by the presiding officer of the house of representatives, or his designee, of papers relating to contested elections, the presiding officer, in the appropriate order of business, must give notice to the house of representatives of receipt of the papers.

(3) State Executive Department Election Contest. Where the papers relate to the contest of a state executive officer, the house of representatives must notify the senate, and the day must be fixed by both houses, by concurrent resolution, for uniting the two (2) bodies to decide upon the same, in which decision the yeas and nays must be taken and entered upon the journal. A joint committee may be appointed by the presiding officers, or designees, of the two (2) bodies to produce a committee report on the election contest.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2115:** The presiding officers gives notice immediately to their respective houses that papers relating to contested elections have been received. If the contest is related to an executive office, the two legislative bodies, by concurrent resolution, decide on a time to unite.

**34-2116. Opening and custody of papers — Appointment of committee.** (1) Unless otherwise provided by legislative rule, the papers relating to any contest of election must be opened only in the presence of the body as directed by the presiding officer. Except as provided in subsection (2) of this section or unless otherwise provided for by legislative rule, the papers must remain in the custody of the presiding officer or his designee until the election contest is decided. Upon a final decision by the body, the provisions of the section 34-2117, *Idaho Code*, governing preservation of evidence will apply.

(2) Appointment of committee. The presiding officer may appoint a standing or special committee to hear the contest of election.

(a) The chairman of the committee will act as the temporary custodian of the papers. The presiding officer, or his designee, has discretion to deliver to the committee chairman all papers delivered to the presiding officer by the secretary of state or a portion of those papers. The committee chairman, or his designee, is authorized to efficiently manage or organize the papers.

(b) Upon conclusion of hearing the contest, the committee will report to the body its recommendation on the contest. The body must vote on the committee report. Upon the body's vote on the report, the committee chairman must return the papers to the presiding officer, who will preserve the evidence as provided in section 34-2117, *Idaho Code*.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2116:** Papers related to contests are opened only in the presence of the body by the presiding officer. Papers must remain in the custody of the presiding officer except when a special committee is appointed to hear the contest. Upon conclusion of the hearing, the committee must return the papers to the presiding officer.

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**34-2117. Preservation of evidence.** (1) Except as provided for in subsection (2) of this section, all the evidence in any contest provided for in this chapter will be returned by the presiding officer, or his designee, to the secretary of state and will be preserved in the office of the secretary of state.

(2) Any ballots or poll books, other than copies, will be returned by the presiding officer to the secretary of state, who will return them to the office of the county auditor in which they were first required to be filed.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2117:** Evidence, except ballots and poll books, are preserved in the office of the secretary of state.

**34-2118. Security for costs — Assessment of costs and fees — Assessment of Attorney's Fees.** (1) The contestor must file with the secretary of state a bond in the amount of one thousand dollars (\$1000) conditioned to pay the contestee's costs if the election be confirmed by the legislature.

(2) The parties are liable for witness fees and the costs of discovery made by them respectively. If the election is upheld by the legislature, the legislature may assess costs and fees, other than attorney's fees, against the contestor. If the election is annulled by the legislature, the legislature may assess costs and fees, other than attorney's fees, against the contestee.

(3) Attorney's fees.

(a) Attorney's fees may be awarded against the contestor if the legislature determines the contest of election is frivolous and has no foundation in law or fact.

(b) Attorney's fees may be awarded against the contestee if the election is annulled by the legislature due to misconduct, fraud or corruption on the part of the contestee.

(4) If the election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the returns, the contest costs will be a charge against the county in which the fraud or error occurred.

(5) If a special election is called by the legislature pursuant to section 34-2119, *Idaho Code*, the costs associated with the special election will be allocated in equal amounts to the state of Idaho and the county or counties where the special election is held.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2118:** The contestor must file a bond in the amount of \$1000 with the secretary of state.

The parties are responsible for witness fees and costs of discovery. Other fees are awarded by the legislature.

**34-2119. Forms of relief.** (1) The legislature must confirm or annul the election and must declare as elected the person who appears duly elected.

(2) If two (2) or more persons have the highest and an equal number of votes for the same office, or if the legal ballots cast or intended to be cast for them had been counted and they would have had the highest and an equal number of votes for the same office, then the election will be decided by lot, in a manner directed by the legislature, which of the persons receiving such votes will be declared duly elected.

(3) When the person whose election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes will not be declared elected and the legislature must declare the election void.

(4) If a vacancy is created pursuant to this section, the legislature may declare the office vacant and order the office filled pursuant to chapter 9, title 59, *Idaho Code*.

(5) Notwithstanding the provisions of chapter 1 of this title, the legislature may call for a special election regarding a specific contested office in which an accurate vote count cannot be obtained or discovered by the legislature. The legislature has the authority to set the date of the special election and the office and candidates to be placed on the ballot. In setting a special election, the legislature may provide for a filing period and notice provisions for the election.

(6) (a) Upon a final decision and award of costs and fees against the contestor, the legislature may direct the secretary of state to pay the award from the bond provided in section 34-2118, *Idaho Code*.

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(b) Upon a final decision and award of costs and fees or attorney's fees against the contestor, and if the costs, fees or attorney's fees exceed the amount of the bond filed pursuant to section [34-2118](#), *Idaho Code*, the contestee may petition the district court for execution of the award.

(c) Upon a final decision and award of costs and fees against the contestee, the contestor may petition the district court for execution of the award.

**History:** S.L. 2017, Ch. 293

**NOTE [34-2119](#):** When an election is declared void, the person receiving the next highest number of votes is not declared elected. The legislature may either call a special election or the vacancy can be filled pursuant to Ch. 9, Title 59, *Idaho Code*.

**34-2120. Contest of nomination at primaries.** Any candidate at a primary election may contest the nomination of any candidate for the same office based on grounds as set out in this chapter.

**History:** S.L. 2017, Ch. 293

**NOTE [34-2120](#):** Only a candidate may contest his opponent's nomination in the primary.

**34-2121. Jurisdiction over primary contests.** A district court in the respective legislative district has jurisdiction over the primary contest involving a legislative election. For election contests involving statewide executive offices, the district court whose jurisdiction includes the state capitol has jurisdiction.

**History:** S.L. 2017, Ch. 293

**NOTE [34-2121](#):** Legislative contests will be in the jurisdiction of the district court within the legislative district. District court in Ada County would have jurisdiction over statewide officials being contested.

**34-2122. Filing of affidavit.** A candidate wishing to contest a primary election must file an affidavit with the appropriate court within five (5) days of the completion of the canvass of the election. The affidavit must set forth information as required in section [34-2108](#), *Idaho Code*, and must be served on all necessary parties in the same manner as a complaint and summons are served pursuant to the Idaho rules of civil procedure.

**History:** S.L. 2017, Ch. 293

**NOTE [34-2122](#):** A contest must be filed with the appropriate court with 5 days of the primary canvass.

**34-2123. Security for costs.** Upon filing of the affidavit, the contestor must file with the court a bond in the amount of one thousand dollars (\$1000) to be used to pay costs of the contestee in the event the primary election be confirmed or the prosecution fail.

**History:** S.L. 2017, Ch. 293

**NOTE [34-2123](#):** Contestor must file a bond of \$1000 with the court.

**34-2124. Fraud or error by the election official.** If the primary election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the election returns, the court costs must be a charge against the state of Idaho.

**History:** S.L. 2017, Ch. 293

**34-2125. Discovery.** The court may order the production of such evidence as it deems necessary for the proper disposition of the primary contest pursuant to the Idaho rules of civil procedure. The election contest must be given priority on the court's calendar.

**History:** S.L. 2017, Ch. 293

## IDAHO CODE: TITLE 34, CHAPTER 21

**34-2126. Remedies.** Not more than ten (10) days after the hearing, the court must render an opinion in a primary contest as soon as practicable and must prescribe such remedies provided in this chapter as it deems just. The court may award attorney's fees if the court finds the contest of nomination is frivolous and has no foundation in law or fact.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2126:** A decision by the court will be rendered within 10 days after hearing an election contest.

**34-2127. Appeals.** (1) In primary election contests, the party against whom judgment is rendered on cases filed in the district court may appeal to the supreme court. The appeal must be taken within ten (10) days of the judgment of the district court.

(2) The supreme court must give the primary contest appeal priority and in no case may it render a decision more than (10) days after the receipt of the appeal.

(3) The supreme court may award attorney's fees if it finds the appeal is frivolous and has no foundation in law or fact.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2127:** An appeal may be made to the supreme court within 10 days of a judgement from the district court.

**34-2128. Cost on appeal.** The appellant must file a bond sufficient to cover the cost of appeal of a primary contest. The amount of the bond on appeal must be set by the court.

**History:** S.L. 2017, Ch. 293

**NOTE 34-2128:** The amount of bond on an appeal of a primary election contest is set by the court.

## Chapter 22: Constitutional Convention Act

**34-2201. Election of delegates.** Whenever the Congress of the United States has proposed, or shall hereafter propose, an amendment to the Constitution of the United States, and proposes that it be ratified by conventions in the several states, the governor shall fix by proclamation the date of an election, subject to the provisions of section 34-106, *Idaho Code*, for the purpose of electing delegates to such convention in the state of Idaho. The proclamation for such election shall be issued by the governor under his hand and the great seal of the state of Idaho at least ninety (90) days before such election and copies thereof shall be transmitted to the board of county commissioners of the counties in which such elections are to be held. Such election shall be held at least as soon as the next general election occurring more than three (3) months after the amendment has been proposed by the Congress of the United States.

**History:** S.L. 1933, Ch. 179; S.L. 1995, Ch. 118

**34-2202. Qualifications of voters.** At such election all persons qualified to vote for presidential electors shall be entitled to vote.

**History:** 1933, Ch. 179, section 2, p. 328

**34-2203. Ascertainment and certification of results — General election laws applicable.** Except as in this act otherwise provided, such election shall be conducted and the results thereof ascertained and certified in the same manner as in the case of the election of presidential electors in this state, and all the provisions of the laws of this state relative to general elections, except in so far as inconsistent with sections 34-2201 — 34-2216, are hereby made applicable to such election.

**History:** 1933, Ch. 179, section 3, p. 328

**34-2204. Number of delegates.** The number of delegates to be chosen to such convention shall be twenty-one (21), to be elected from the state at large.

**History:** 1933, Ch. 179, section 4, p. 328

**34-2205. Qualifications of delegates — Nominating petitions — Declarations of candidates and signers — Certification.** Candidates for the office of delegate to the convention shall be qualified electors of the state of Idaho. Nomination shall be by petition and not otherwise. A single petition shall nominate but one (1) candidate, who may have one (1) or more separate petitions. Nominations shall be without party or political designation, but the nominating petitions shall each contain a declaration of the candidate that he is a candidate for election to the office of delegate to the constitutional convention, and a statement to the effect that he favors ratification of, or that he is against ratification of the proposed constitutional amendment to be acted upon by the constitutional convention, and the total number of voters joining in the nomination of a candidate shall not be less than one hundred (100).

The candidate's declaration in the nominating petition shall be in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of \_\_\_\_\_ precinct, \_\_\_\_\_ County, State of Idaho, hereby declare myself to be a candidate for the office of delegate to the constitutional convention, to be voted for at the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and that I \_\_\_\_\_ (insert one only of the following: "favor ratification of" \_\_\_\_\_ or "am against ratification of") the proposed constitutional amendment to be acted upon by the constitutional convention, and certify that I possess the legal qualifications to fill said office, and that my post-office address is \_\_\_\_\_.

I further certify and declare that if nominated I hereby accept said office.

(Signed) \_\_\_\_\_

## IDAHO CODE: TITLE 34, CHAPTER 22

All blank spaces shall be properly filled in with the necessary information and the declaration of candidacy shall be subscribed and sworn to before an officer authorized to administer oaths, and the signatures of the voters joining in such petitions, each of which signatures shall be followed by the signer's residence address and date, shall be prefaced by a declaration in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of the State of Idaho, do hereby declare that I am in accord with the statement and declaration of \_\_\_\_\_, a candidate for the office of delegate to the constitutional convention, to be voted for at the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and do hereby join in this petition for his nomination for such office.

Name of Petitioner

Post Office

Date of Signing

Each nominating petition shall, at the time of filing in the office of the secretary of state, bear an affidavit in substantially the following form, executed and verified by a citizen and resident of the State of Idaho:

State of Idaho  
County of \_\_\_\_\_ } s.s.

I do solemnly swear (or affirm) that I am a citizen and resident of the State of Idaho; that each of the petitioners whose name is affixed to the above paper signed the same personally, together with his post-office address and date of signing, and that each signed the same with full knowledge of its contents; that to the best of my knowledge each is a qualified elector of the State of Idaho.

Signature \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public for the State of Idaho \_\_\_\_\_

Residence \_\_\_\_\_

(Notary Seal)

No voter shall sign more than twenty-one (21) nominating petitions nor more than one (1) petition for the same candidate, and if he does either, his signatures shall not be counted on any nominating petition.

All acceptances and petitions shall be filed with the secretary of state not less than forty-five (45) days before the date fixed for the election. No nomination shall be effective except those of the twenty-one (21) candidates in favor of ratification and the twenty-one (21) candidates against ratification whose nominating petitions have respectively been signed by the largest number of voters, ties, if any, to be decided by lot drawn by the secretary of state; provided, however, that if there be less than twenty-one (21) candidates in favor of ratification, all such candidates shall be considered as nominated, or if there be less than twenty-one (21) candidates against ratification all such candidates shall be considered as nominated. Within ten (10) days after the petitions are filed with him, the secretary of state shall certify to each county auditor within the state, a certified list of the candidates of each group entitled to be voted for at such election, as appears from the acceptances and nominating petitions filed in the office of the secretary of state.

**History:** 1933, Ch. 179, section 5, p. 328, S.L. 2007, Ch. 90

## IDAHO CODE: TITLE 34, CHAPTER 22

**34-2206. Ballots.** The election shall be by ballot, separate from any ballot to be used at the same election, which ballot shall be prepared as follows: It shall first state the substance of the proposed constitutional amendment. This shall be followed by appropriate instructions to the voter. It shall then contain perpendicular columns of equal width headed respectively, in plain type, “**For Ratification**” and “**Against Ratification**.” In the column headed “**For Ratification**” shall be placed the names of the candidates nominated in favor of ratification. In the column headed “**Against Ratification**” shall be placed the names of the candidates nominated as against ratification. The voter shall indicate his choice by making one or more cross-marks in the appropriate spaces provided on the ballot. No ballot shall be held void because any such cross-mark is irregular in character. The ballot shall be so arranged that the voter may, by making a single cross-mark, vote for the entire group of candidates whose names are comprised in any column:

The ballot shall be in substantially the following form:

### PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Delegates to the Convention to Ratify the Proposed Amendment. The Congress has proposed an amendment to the Constitution of the United States which provides (insert here the substance of the proposed amendment).

The Congress has also proposed that the said amendment shall be ratified by conventions in the several states.

### INSTRUCTIONS TO VOTERS

Do not vote for more than 21 candidates altogether.

To vote for all candidates in favor of ratification, or for all candidates against ratification, make a cross-mark in the CIRCLE at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate make a cross-mark in the SQUARE at the left of the name.

FOR RATIFICATION	AGAINST RATIFICATION
<input type="radio"/>	<input type="radio"/>
<input type="checkbox"/> John Doe	<input type="checkbox"/> Charles Coe
<input type="checkbox"/> Richard Roe	<input type="checkbox"/> Michael Moe
<input type="checkbox"/>	<input type="checkbox"/>

All circular spaces in said ballot shall be one-half (1/2) inch in diameter. All square spaces in said ballot shall be one-half (1/2) inch square.

Except as herein otherwise provided, ballots and supplies for said election shall be prepared and furnished as provided by chapter 9 of this title.

**History:** 1933, Ch. 179, section 6, p. 328

**34-2207. Result of election — Vacancies, how filled.** The twenty-one (21) candidates who shall receive respectively the highest numbers of the total number of votes cast at said election shall be the delegates to the convention. If there shall be a vacancy in the convention caused by the death or disability of any delegate or any other cause, the same shall be filled by appointment by the majority vote of the delegates comprising the group from which such delegate was elected and if the convention contains no other delegate of that group, shall be filled by the governor.

**History:** 1933, Ch. 179, section 7, p. 328

**34-2208. Meeting and organization of delegates.** The delegates to the convention shall meet and assemble in the house of representatives in the capitol at Boise, Idaho, on the twenty-eighth day after their election, at twelve (12) o'clock noon, and shall thereupon organize as, be and constitute a convention to pass upon the question of whether or not the proposed amendment shall be ratified.

**History:** 1933, Ch. 179, section 8 p. 328

## IDAHO CODE: TITLE 34, CHAPTER 22

**34-2209. Organizational powers of convention.** The convention shall be the judge of the election and qualification of its members; and shall have the power to elect its president, secretary and other officers and/or employees and to adopt its own rules.

**History:** 1933, Ch. 179, section 9, p. 328

**34-2210. Journal of proceedings.** The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment. Upon final adjournment the journal shall be certified to by the president and secretary of the convention and be filed with the secretary of state.

**History:** 1933, Ch. 179, section 10, p. 328

**34-2211. Certificate of ratification.** If the convention shall agree, by a vote of a majority of the total number of delegates, to the ratification of the proposed amendment, a certificate to that effect shall be executed by the president and secretary of the convention and transmitted to the secretary of state of this state, who shall transmit the certificate under the great seal of the state to the secretary of state of the United States.

**History:** 1933, Ch. 179, section 11, p. 328

**34-2212. No compensation — Expenses, how allowed.** No delegate to a constitutional convention shall receive any compensation except that such delegate shall be paid his actual, necessary and reasonable expenses in traveling to and from and attendance at said convention.

**History:** 1933, Ch. 179, section 12, p. 328

**34-2213. Expenses, how paid.** All the expenses of the constitutional convention and the expenses allowed delegates thereto shall be allowed and paid by the state of Idaho in the same manner as other claims against the state are allowed and paid, and from such appropriations as are, or may be, available therefor.

**History:** 1933, Ch. 179, section 13, p. 328

**34-2214. Federal statute to control.** If at or about the time of submitting any such amendment, Congress shall either in the resolution submitting the same or by statute, prescribe the manner in which the conventions shall be constituted, and shall not except from the provisions of such statute or resolution such states as may theretofore have provided for constituting such conventions, the preceding provisions of this act shall be inoperative, the convention shall be constituted and shall operate as the said resolution or Act of Congress shall direct, and all officers of the state who may by the said resolution or statute be authorized or directed to take any action to constitute such a convention for this state are hereby authorized and directed to act thereunder and in obedience thereto with the same force and effect as if acting under a statute of this state.

**History:** 1933, Ch. 179, section 14, p. 328

**34-2215. Separability.** If any part or parts of sections 34-2201 — 34-2216 shall be adjudged by the courts to be unconstitutional or invalid, the same shall not effect the validity of any part or parts thereof which can be given effect without the part or parts adjudged to be unconstitutional or invalid. The legislature hereby declares that it would have passed the remaining parts of sections 34-2201 — 34-2216 if it had been known that such other part or parts thereof would be declared to be unconstitutional or invalid.

**History:** 1933, Ch. 179, section 15, p. 328

**34-2216. Short title.** This act, sections 34-2201 — 34-2216, may be cited as the “**Constitutional Convention Act.**”

**History:** 1933, Ch. 179, section 16, p. 328

**34-2217. [Repealed - S.L. 1995, Ch. 227]**

## Chapter 23: Recount Of Ballots

**34-2301. Application for recount of ballots.** (1) Any candidate for federal, state, county or municipal office desiring a recount of the ballots cast in any nominating or general election or person supporting or opposing a state, county or city measure, may apply to the attorney general therefor, within twenty (20) days of the canvass of such election, by the state board of canvassers if for federal and state office, or within twenty (20) days of the canvass of such election by the county commissioners if for a county or municipal office.

(2) Candidates for all other offices and supporters and opponents to all other ballot measures desiring a recount may apply to the county clerk within twenty (20) days of the canvass of said election by the board of county commissioners.

**History:** S.L. 1957; Ch. 198; S.L. 1985, Ch. 41; S.L. 2009, Ch. 341; S.L. 2011, Ch. 285

**NOTE 34-2301:** A federal or state candidate or a person supporting or opposing a state, county or city measure must apply within 20 days of the state board of canvass. A county or municipal candidate must apply within 20 days of the county board of canvass. Federal, state, county and municipal candidates must apply for recount to the attorney general.

All other candidates and supporters and opponents to all other ballot measures apply to the county clerk within 20 days of the county board of canvass.

**34-2302. Precincts specified for recount — Remittance.** In his application he shall state the precinct or precincts in which he desires recount to be made and shall remit to the attorney general or county clerk, pursuant to section 34-2301, *Idaho Code*, together with his application the sum of one hundred dollars (\$100) for each such precinct in which he desires a recount made.

**History:** S.L. 1957, Ch. 198; S.L. 2011, Ch. 285

**NOTE 34-2302:** The precinct or list of precincts to be recounted along with \$100 per precinct must accompany the application to the Attorney General or County Clerk.

**34-2303. Ballots ordered impounded by attorney general.** Upon receiving the application for recount together with the remittance required by section 34-2302, *Idaho Code*, the attorney general or county clerk, pursuant to section 34-2301, *Idaho Code*, shall cause all ballot boxes used in such election in the precinct or precincts in which recount is to be made to be immediately impounded and taken into custody by the sheriff of the county or counties in which precinct or precincts are located. In the event that the recount is of the results of a primary election the ballot boxes used to hold the blank half of the ballot shall also be impounded.

**History:** S.L. 1957, Ch. 198; S.L. 2011, Ch. 285

**NOTE 34-2303:** The Attorney General or the County Clerk issues an order instructing the County Sheriff to impound the ballot boxes of precincts to be recounted.

**34-2304. Order for recount — Procedure — Notice.** The attorney general or county clerk shall then issue an order for recount. The order shall name the prior election judges and clerks of the precinct to act in the same capacity and receive the same compensation as they did on election day. The order shall provide for the place where the recount is to be made; that all candidates named on the ballot for the office contested, or a representative of either or all of them, may be present to watch the counting; and that every other person interested may be present. The order shall state the date on which the recount is to be made which shall not be more than ten (10) days from the date of the order. Copies of the order shall be mailed to each candidate named on the ballot for the office to be recounted.

**History:** S.L. 1957, Ch. 198; S.L. 1985, Ch. 41; S.L. 2011, Ch. 285

**NOTE 34-2304:** The Attorney General or County Clerk issues an order for recount providing for the place, time, candidates to be recounted and requiring the election clerks having worked on election day to act in their same capacity for the recount of ballots in their precinct. Recount not to occur more than 10 days from the date of the order. There is no statutory date of when the order has to be issued. This provide some flexibility in timing of the recount, so all of the parties can be in attendance.

All candidates named on the ballot for the office contested shall be mailed a copy of the order. Any person interested may be present for the recount.

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**34-2305. Manner of recounting.** At the time and place fixed for recounting the ballots cast in any precinct all ballots shall be recounted in plain view of the candidates or their representatives. The recount shall commence at the time and place so ordered, and shall continue until the recount is finished and the results tabulated. The attorney general shall be the final authority concerning any question which arises during the recount for federal, state, county or municipal elections. The county prosecuting attorney shall be the final authority concerning any question that arises during the recount of other elections.

**History:** S.L. 1957, Ch. 198; S.L. 1985, Ch. 41; S.L. 2011, Ch. 285; S.L. 2012, Ch. 211

**NOTE 34-2305:** The ballots are counted in the same manner as election night, i.e. punch card or optical scan ballots are counted by machine.

The Attorney General is the final authority concerning any questions which arise during the recount for federal, state, county or municipal elections. The county prosecuting attorney shall be the final authority concerning any question that arises during the recount of other elections.

See the Ballot Inspection Directive and “What is to be Counted as a Vote” beginning on page J-29 under Secretary of State Directives.

**34-2306. Difference revealed by recount — Candidate relieved of costs.** If the results of the recount indicate a difference, which if projected across all the precincts of the office in question would change the result of the election in favor of the candidate requesting the recount or change in the measure being recounted, then the cost of such recount shall be borne by the county or state and the sums of money theretofore paid for the recount shall be returned to the candidate or person who requested the recount of a ballot measure.

In order to be relieved of the costs of the recount, the candidate or person must request that at least twenty (20) precincts containing not less than five thousand (5,000) votes cast be recounted if for a federal or state office or measure, or five (5) precincts containing not less than one thousand two hundred fifty (1,250) votes cast be recounted for a state legislative district office, or at least two (2) precincts having not less than five hundred (500) votes cast be recounted for a county office or measure, or two (2) precincts having not less than two hundred (200) votes cast to be recounted in city or district elections.

**History:** S.L. 1957, Ch. 198; S.L. 1985, Ch. 41; S.L. 2011, Ch. 285

**NOTE 34-2306:** In addition to a projected vote difference, to qualify for relief of costs a candidate must have requested at least 20 precincts with not less than 5,000 votes cast if for a federal or state office; at least 5 precincts with not less than 1,250 votes cast for state legislative district office; at least 2 precincts with not less than 500 votes cast for county office or measure; and at least 2 precincts with not less than 200 votes cast for city or district elections.

**34-2307. When general recount ordered.** If the candidate or person who requested the recount is relieved of the costs of the recount as described in section [34-2306](#), *Idaho Code*, the attorney general, or the county prosecuting attorney for district offices, shall require a recount to be made in all the remaining precincts of the office in question. The state shall pay for a general recount of a federal, state, or legislative district office, while the county shall pay for a general recount of a county, city or district office.

**History:** S.L. 1957, Ch. 198; S.L. 1985, Ch. 41; S.L. 2011, Ch. 285; S.L. 2012 Ch. 211

**NOTE 34-2307:** The Attorney General will require a recount to be made in all the remaining precincts of the office in question if the results of the recounted precincts indicate a difference which, if projected across all the precincts of the office in question, would change the result of the election in favor of the candidate requesting the recount. The state shall pay for a recount of a federal, state, or legislative district office. The county shall pay for a recount of a county, city or district office.

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**34-2308. Candidate disagreeing with recount results — Appeal.** (1) Any candidate or person may appeal the results of a recount or the determination that a recount is not necessary when:

- (a) Any candidate for the office or the person on either side of a measure for which a recount has been requested disagrees with the results of the recount and alleges that the law has been misinterpreted or misapplied;
- (b) It appears that a different application or interpretation of the law would have required a general recount where no general recount was ordered; or
- (c) It appears that a different application or interpretation of the law would not have required a general recount where a general recount was ordered;

then the candidate claiming the misinterpretation or the misapplication of law may appeal to the district court in the county concerned if the office is a county, municipal or district office or to the district court in Ada county if the office is a federal or state office.

(2) The submittal on appeal shall be by brief and submitted within twenty-four (24) hours following the recount. The appeal submittal shall be served upon the attorney general of Idaho or the county prosecuting attorney within twenty-four (24) hours of filing it within the district court. The appeal submittal shall also be served upon the opposing candidate(s) or representatives of the pro and con sides of the ballot measure within twenty-four (24) hours of filing the appeal in the district court.

(3) The attorney general, in consultation with the secretary of state, may respond to the submittal by brief or the prosecuting attorney, in consultation with the county clerk, may respond for district elections.

(4) The opposing candidate(s) or parties, regarding a measure, may respond to the submittal by brief.

(5) At the discretion of the district court judge, a hearing may be ordered within five (5) days of the filing of the appeal. All parties required to be served with the appeal may participate fully in the hearing. The judge may determine that the appeal may be decided on the brief without a hearing.

(6) A decision thereon shall be given within five (5) days. Any appeal from the decision of the district court must be taken within twenty-four (24) hours after a decision is rendered. A decision on the appeal shall be given within five (5) days. No further appeal shall be allowed.

**History:** S.L. 1957, Ch. 198; S.L. 1985, Ch. 41; S.L. 2004, Ch. 48; S.L. 2011, Ch. 285

**NOTE 34-2308:** A candidate or person on either side of a measure disagreeing with recount results may appeal within 24 hours following the recount. County, municipal or district candidates may file appeal with district court in the county concerned and federal and state candidates to the district court in Ada County.

The appeal submitted shall be served upon the attorney general or the county prosecuting attorney and the opposing candidate(s) within 24 hours of filing with the district court. This section also allows for a response brief from the attorney general or the county prosecuting attorney and opposing candidate(s).

**34-2309. Free recount.** A losing candidate for nomination, or election to a federal, state, or county office, or person supporting or opposing a ballot measure, may request a recount of the votes cast for the nomination or election to that office or passage or failure of a measure if the difference between the vote cast for that candidate and for the winning candidate for nomination or election, or the difference between the yes and no votes on a measure, is less than or equal to one-tenth of one percent (0.1%) of the total votes cast for that office or five (5) votes, whichever is greater. All requests shall be in writing, and filed with the attorney general during the time mentioned in section 34-2301, *Idaho Code*.

The state shall pay for the recount of a federal, state, or legislative district office, or state measure while the county shall pay for the recount of a county, city or district office or measure.

**History:** S.L. 1957, Ch. 198; S.L. 1985, Ch. 41; S.L. 1986, Ch. 97; S.L. 2011, Ch. 285; S.L. 2015, Ch. 282

**NOTE 34-2309:** A free recount will be ordered if a request is made for the recount and filed with the attorney general within 20 days of the appropriate canvass and if the difference in the vote between the losing candidate and the winning candidate is less than or equal to 1/10 of 1% (1 vote for every 1,000) of the total votes cast for that office or five (5) votes, whichever is greater.

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**34-2310. “Costs” defined.** As used in this chapter, costs of recount shall include the following:

- (1) Travel costs of the office of the attorney general including meals and lodging.
- (2) Normal hourly rate for election judges and clerks who are not employees of the county.
- (3) Mileage for election judges who are not employees of the county.
- (4) Any other costs directly attributable to the recount.

**History:** S.L. 1985, Ch. 41

**34-2311. [Not used]**

**34-2312. [Not used]**

**34-2313. Recount procedures for automated tabulation systems.** (1) To ensure the accuracy of automated vote tabulation systems, the county clerk shall follow the recount procedures provided in this section.

(2) The votes from a random selection of ballots shall be tallied by hand and the votes from the same ballots shall be tabulated by an electronic ballot tabulating system. For statewide and federal office or a statewide measure, the number of ballots to be tallied and tabulated shall be equal to at least two (2) precincts of the ballots cast in each county. For all other offices or measures, the number of ballots to be tallied and tabulated shall be equal to the greater of one hundred (100) or five percent (5%) of the ballots cast for the office or measure, distributed by county where applicable.

(3) For a statewide or federal office or a statewide measure, if the results of the hand-tally and the automated vote tally system tabulation within the county differ by one-fourth of one percent (.25%) or less, the remaining ballots shall be recounted using automated vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

(4) For other offices and ballot measures, if the results of the hand tally and electronic vote tabulating system tabulation differ by less than one percent (1%), or two (2) votes, whichever is greater, the remaining ballots shall be recounted using automated vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

**History:** S.L. 2011, Ch. 285

**NOTE 34-2313:** To ensure the accuracy of automated vote tabulation systems, the county clerk shall at random select ballots to be counted by hand. Then the same ballots shall be tabulated by an electronic ballot tabulating system. If, for statewide or federal office or measure, the hand tally and the automated system differ by 0.25% or less, the remaining ballots are counted by the automated system. If they don't, then they are counted by hand.

For other offices or measures, if the hand tally and tabulating system differ by less than 1% or 2 votes, whichever is greater, the remaining ballots shall be counted by the tabulating system.

## Chapter 24: Voting By Machine Or Vote Tally System

**34-2401. Definitions.** As used in this chapter:

- (1) “**Ballot**” means any material used or the voting surface of a direct recording electronic system on which votes are cast for offices, candidates and measures.
- (2) “**Ballot card**” means the tabulating card or cards of any size upon which the voter records his vote.
- (3) “**Ballot label**” means the cards, papers, booklet or other material containing the names of offices and candidates and measures to be voted on.
- (4) “**Election**” means all state, county, city, district and other political subdivision elections including bond issue elections.
- (5) “**Governing body**” means the board of county commissioners of any county or the governing body of any city, district or other political subdivision elections including bond issue elections.
- (6) “**Measure**” means a proposed law, act or part of an act of the legislative assembly or amendment to the Constitution of the state of Idaho to be submitted to the people for their approval or rejection at an election. “**Measure**” also means other propositions which can be submitted to the voters at any election by counties, cities, districts or other political subdivisions.
- (7) “**Model**” means a mechanically operated model of a portion of the face of the machine illustrating the means of voting.
- (8) “**Precinct**” includes all election districts.
- (9) “**Voting machine**” means:
  - (a) Any mechanical or electronic device which will record every vote cast by any voter on candidates and measures and which will either internally or externally total all votes cast on that device;
  - (b) Any device into which a ballot card may be inserted and which is so designed and constructed that the vote for any candidate or measure may be indicated by punching or marking the ballot card.
- (10) “**Vote tally system**” means one (1) or more pieces of machinery or equipment necessary to examine and tally automatically paper ballots having marks placed thereon by a written mark or by a marking stamp. The examination shall be accomplished by either mark sensing or optical scanning.

**History:** S.L. 1970, Ch. 140; S.L. 1974, Ch. 3; S.L. 2001, Ch. 272; S.L. 2003, Ch. 48

**NOTE 34-2401:** Amended in 2001 and 2003 to allow for certification of electronic devices meeting standards in Section 34-2409.

**34-2402. Authority to use.** It is the policy of this state that at all elections, including bond issue elections, that ballots or votes may be cast, registered, recorded and counted by means of voting machines or vote tally systems as provided in this chapter.

**History:** S.L. 1974, Ch. 3

**34-2403. Applicability of other laws.** All election laws, including, but not limited to, bond election laws, city charters or ordinances, not inconsistent with this chapter, shall apply to all elections in election precincts where voting machines or vote tally systems are used. No provision of law, city charter or ordinance which in any way conflicts with this chapter or with the use of voting machines or vote tally systems as provided in this chapter, shall operate to prohibit use of voting machines or vote tally systems in any election or bond issue election.

**History:** S.L. 1974, Ch. 3

**34-2404. Tampering with machines prohibited.** (1) No person shall:

- (a) Tamper with or injure or attempt to injure any voting machine or vote tally system to be used or being used in an election.
- (b) Tamper with any voting machine or vote tally system that has been used in an election.
- (c) Prevent or attempt to prevent the correct operation of any voting machine or vote tally system.
- (2) An unauthorized person shall not make or have in his possession a key to a voting machine to be used or being used in an election.
- (3) Neither the secretary of state nor any officer or employee of any county, city, district or other political subdivision using voting machines or vote tally systems, shall solicit or accept any compensation, other than amounts paid by the governmental unit, in connection with the sale, lease or use of voting machines or vote tally systems.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2404:** No public officer or employee may solicit or accept any compensation in connection with the sale, lease or use of voting machines or vote tally systems.

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**34-2405. Authority for procurement of machines.** (1) After consultation with the county clerk as chief elections officer of his county, the governing body at any regular meeting or a special meeting called for the purpose, may rent, purchase or otherwise procure, and provide for the use of, in all or a portion of the election precincts of the county, any voting machine or vote tally system which the governing body deems to be in the best interest of that county and which machine or system is approved by the secretary of state.

(2) Thereafter the voting machine or vote tally system shall be used for voting and for receiving, registering and counting the votes in all primary and general elections held in such precincts.

(3) In all other elections, the voting machine or vote tally system may be used for voting, receiving, registering and counting the votes at the direction of the county clerk.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 129

**NOTE 34-2405:** The decision to use an automated vote tally system, and which one to use is left to the individual counties. After consultation with the County Clerk the county commissioners make the decision whether or not to rent, purchase or otherwise procure voting machines and vote tallying systems.

**34-2406. Joint purchase and use of machines authorized.** (1) In procuring the necessary voting machines or vote tally systems to be used, a governing body of any county, city, district or other political subdivision in the county, may by agreement entered into by the board of county commissioners and the governing bodies of cities, districts or other political subdivisions, provide for the joint purchase and subsequent ownership of voting machines or vote tally systems and for the care, maintenance and use of the machines or vote tally systems.

(2) The governing body of two (2) or more counties may by agreement provide for the joint use of voting machines or vote tally systems.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2406:** A joint purchase between counties or other political subdivisions is allowed.

**34-2407. Purchase of machines — Manner of payment.** (1) The governing body may, on the adoption and purchase of voting machines or vote tally systems, provide for their payment in the method it determines to be for the best interest of the county, city, district or other political subdivision. The governing body may make contracts for the purchase of the machines or vote tally systems with such provisions with regard to price, manner of purchase and time of payment that the governing body determines are proper.

(2) For the purpose of paying for voting machines or vote tally systems, the governing body may:

(a) Issue bonds, warrants, notes or other negotiable obligations. The bonds, warrants, certificates, notes or other obligations shall be a charge upon the county, city, district or other political subdivisions.

(b) Pay for the voting machines or vote tally system in cash out of the general fund.

(c) Provide for the payment for the voting machines or vote tally systems by other means.

(3) In estimating the amount of taxes for the general fund, if any, the amount required for payment for voting machines or vote tally systems shall be added, extending over the time required to pay for the machines or vote tally systems.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2407:** These sections relating to county finance do not supersede the sections in *Idaho Code* concerning the county's budgeting and financial processes.

**34-2408. Prior approval required for issuance of bonds.** The governing body of any county shall, prior to authorizing the issuance of bonds obtain the approval in writing of the secretary of state as to the type and number of machines or vote tally systems to be purchased and the price to be paid therefor.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2408:** This section does not supersede other sections dealing with county bond issues.

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**34-2409. Examination of machines by secretary of state prior to adoption.** (1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. Any voting machine or vote tally system shall be certified by the secretary of state for use in Idaho. Except for functions or capabilities unique to this state, voting machines and vote tally systems shall be tested and the results certified by an independent testing authority designated by the secretary of state prior to certification.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not more than three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

(5) Any voting system, including paper ballots, that was used in the 2004 general election shall be continued to be authorized for use as long as the voting system meets the requirements of the “**Help America Vote Act of 2002**,” Public Law 107-252.

(6) For all elections conducted after 2004, no direct recording electronic voting device shall be used unless the direct recording electronic voting device has a voter verifiable paper audit trail. Any certifications of a direct recording electronic voting device without a voter verifiable paper audit trail are hereby declared null and void.

(7) The secretary of state may periodically review the various voting systems that have been certified for use in the state to ensure such systems meet the standards set forth by the federal election assistance commission and the national institute of standards and technology. Any voting system that does not meet such standards may be decertified after a public hearing.

**History:** S.L. 1970, Ch. 140; S.L. 2001, Ch. 272; S.L. 2005, Ch. 282; S.L. 2007, Ch. 202; S.L. 2012, Ch. 179

**NOTE 34-2409:** The Secretary of State is charged with the responsibility and given the authority to publicly examine and certify voting systems for use in the state. Voting systems are to be tested by an independent testing laboratory to verify the system meets or exceeds federal standards promulgated by the Federal Election Assistance Commission (EAC). The Secretary may also hire up to 3 experts to assist in the state certification process – the cost of which is to be borne by the voting system vender. The Secretary of State may rely on the certification issued by the EAC in determining the eligibility of the voting system being certified for use in the state.

A vote tally system or voting machine cannot be purchased and cannot be used for conducting elections without the approval of the Secretary of State.

The Secretary of State has the authority to decertify equipment that no longer meets federal standards.

Requires any DRE to print the voter’s selection on paper for the voter to review before the vote is cast and recorded in the device.

**34-2410. Specifications for voting machines or vote tally systems.** (1) No voting machine or vote tally system shall be approved by the secretary of state unless it is constructed so that it:

- (a) Secures to the voter secrecy in the act of voting.
- (b) Provides facilities for voting for the candidates of as many political parties or organizations as may make nominations and for or against as many measures as may be submitted.
- (c) Permits the voter to vote for any person for any office and upon any measure that he has the right to vote for.
- (d) Permits the voter, except at primary elections, to vote for all the candidates of one (1) party or in part for the candidates of one (1) party and in part for the candidates of one or more other parties.

## IDAHO CODE: TITLE 34, CHAPTER 24

- (e) Permits the voter to vote for as many persons for an office as he is lawfully entitled to vote for but no more.
- (f) Prevents the voter from voting for the same person more than once for the same office.
- (g) Correctly registers or records all votes cast for any and all persons and for or against any and all measures.
- (h) Can be adjusted so that the counting mechanism rejects any vote cast on the tabulating card in excess of the number which the voter is entitled to vote.
- (i) Provides that a vote for more than one (1) candidate cannot be cast by one (1) single operation of the machine or vote tally system.
- (2) A vote tally system shall be:
  - (a) Capable of correctly counting votes on ballots or ballot cards on which the proper number of votes have been marked for any office or question or issue that has been voted.
  - (b) Capable of ignoring the votes marked for any office or question or issue where more than the allowable number of votes have been marked, but shall correctly count the properly voted portions of the ballot card.
  - (c) Capable of accumulating a count of the specific number of ballots or ballot cards tallied for a precinct, accumulating total votes by a candidate for each office; and accumulating total votes for and against each question and issue of the ballots or ballot cards tallied for a precinct.
  - (d) Capable of tallying votes from ballots or ballot cards of different political parties, from the same precinct, in the case of a primary election.
  - (e) Capable of accommodating rotation of candidates' names on the ballot or ballot card, provided that all ballots or ballot cards from one (1) precinct shall be of the same rotation sequence.
  - (f) Capable of automatically producing precinct totals in either printed, marked, or punched form, or combinations thereof.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2410:** Sets forth the criteria to be met by a vote tally system or voting machine for approval by the Secretary of State.

For a list of certified voting machines & vote tally systems, see pages K-17 - K-42 under Miscellaneous.

**34-2411. Duties of clerks of election boards.** (1) The secretary of state shall issue an administrative order outlining the duties of each of the clerks on the election board. He shall devise and prescribe for use by each local election officer the contents, form, character and kinds of ballots, ballot labels, ballot cards, formats, records, papers and documents and other materials and supplies and procedures necessary in the use of voting machines or vote tally systems and in the process of counting and tabulating the ballots by mechanical or electrical counting devices or equipment or computers.

(2) The secretary of state shall prescribe rules and regulations to achieve and maintain the maximum degree of correctness, impartiality and efficiency on the procedures of voting, and of counting, tabulating and recording votes, by the devices, machines or vote tally systems and methods provided by this act.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2411:** Secretary of State prescribes the contents of ballots including format and the supplies to be used by each local election official using a voting machine or vote tally system.

**34-2412. Composition of precinct election boards.** (1) The election board of each election precinct in which a voting machine or vote tally system is used shall consist of an election judge and one (1) or more clerks. Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts at least sixty (60) days prior to the primary election. The county clerk shall establish the number of election board clerks.

(2) The qualifications and duties of election judges shall apply to the appointment of election board clerks in counties or precincts where voting machines or vote tally systems are used.

**History:** S.L. 1970, Ch. 140; S.L. 1974, Ch. 75; S.L. 1989, Ch. 346; S.L. 2012, Ch. 211

**NOTE 34-2412:** Each precinct must have an election board consisting of an election judge and 1 or more clerks.

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**34-2413. Preparation of machines for use — Instructions.** (1) Before each election at which voting machines or vote tally systems are to be used, the county clerk of a county, in which voting machines or vote tally systems are to be used, shall cause them to be properly prepared and shall cause the election board to be properly instructed in their use.

(2) For the purpose of giving such instruction, the county clerk shall call the meeting or meetings of the election board that are necessary. Each election board shall attend the meetings and receive the instruction necessary for the proper conduct of the election with the machine or vote tally system.

(3) No election board judge or clerk shall serve in any election at which a voting machine or vote tally system is used unless he has received the required instruction and is fully qualified to perform the duties in connection with the machine or vote tally system; but this requirement shall not prevent the appointment of an election board clerk to fill a vacancy in an emergency.

**History:** S.L. 1970, Ch. 140; S.L. 2012 Ch. 211

**NOTE 34-2413:** Unless an emergency vacancy occurs no election board judge or clerk is to serve unless he has received the required instruction from the County Clerk at one of the meetings called for the purpose of giving such instruction in the next election.

**34-2414. Printed matter and supplies.** (1) The election officer charged with the duty of providing ballots shall provide all necessary instruction, forms and supplies required for the proper use of the voting machines or vote tally systems.

(2) Within a proper and reasonable time before the first election at which voting machines or vote tally systems are to be used, the secretary of state shall prepare samples of the printed matter and supplies required. He shall furnish one (1) of each of the samples to the election officer in charge of the election of each county, city, district or other political subdivision in which the machines or vote tally systems are to be used.

(3) The county clerk or other election officer shall deliver voting machines to each election board as provided for election supplies.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2414:** The Secretary of State provides samples of the printed matter and supplies required for use by a jurisdiction in which a voting machine or vote tally system is used. It is the election officer's duty to provide all necessary instruction, forms and supplies to election workers.

**34-2415. Preparation of polling place for election.** (1) The election board of each election precinct in which a voting machine is to be used shall meet at the polling place for the election precinct at least thirty (30) minutes before the time set for opening the polls. Before preparing the machine for voting, the election board shall proceed as prescribed in subsection (2) of this section.

(2) The election board shall:

(a) Cause the voting machine to be placed where it can be conveniently attended by the election board and conveniently operated by the voters and where the ballot labels on the machines can be plainly seen by the election board and the public when not being voted on.

(b) Cause the model to be placed where each voter can conveniently operate it and receive instructions on the model as to the manner of voting before entering the voting machine booth.

(c) Determine that the ballot labels are in the proper place on the machine.

(3) After performing their duties as provided in this section, the election board shall certify to the fact in the appropriate places in the poll book.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2415:** The election board in each precinct is to arrive at the polls at least 30 minutes before the polls open for the purpose of preparing the polling place. The election workers determine that the ballot labels are in the proper place on a voting machine and certify they have properly prepared the polling place by certification of the election record poll book.

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**34-2416. Procedure for preparing machines for an election.** (1) In preparing a voting machine for an election, the county clerk or the clerk of the city, district or other political subdivision, as the case may be, shall:

(a) Arrange the machine and the ballot labels so that it shall in every particular case meet the requirements of voting and counting at such elections.

(b) Thoroughly inspect and test the machine, and file a certificate in his office that the ballot labels have been properly arranged.

(2) The arrangement of offices and names of candidates upon the ballot labels shall conform as nearly as practicable to the provisions of law for the arrangement of names on paper ballots, and in the event that there are more candidates for any office than can be placed upon one (1) page, the labels shall be clearly marked to indicate that the names of candidates for the office are continued on the following page.

(3) Representatives of political parties and candidates shall be permitted to examine the voting machines or vote tally systems.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2416:** Upon completion of thoroughly inspecting and testing the machine(s) the County Clerk will have on file in his/her office a certificate stating that the ballot labels have been properly arranged on the voting machine.

**34-2417. Notice of locations of voting machines and polling places.** Before preparing the voting machines or vote tally systems for any election, the county clerk shall mail to the chairman of the county or legislative district central committees of each political party who has notified such clerk that notice is desired, a written notice stating the time and place or places where voting machines or vote tally systems will be prepared for the election. At such times and places, one (1) representative of each political party is entitled to be present and see that the machines or vote tally systems are properly prepared and placed in proper condition and order for use at the election. In nonpartisan elections each candidate may designate one (1) representative who has the same powers as the political party representatives. The political party and candidate representatives shall certify that they have witnessed the testing and preparation of the machines or vote tally systems. The certificates shall be filed in the office of the county clerk.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2417:** A political party may notify the County Clerk that they wish to witness the preparation of voting machines or vote tally systems. The clerk gives written notice the times and places, one (1) representative of each political party may be present. The witnesses certify that they have witnessed the testing and preparation of the machines or vote tally systems and the certificates filed in the office of the County Clerk. This testing is done by running the "test deck" for county chairmen and candidates.

**34-2418. Ballots and ballot labels.** (1) The ballots and ballot labels required to be furnished for general or special elections shall be printed in black ink on clear white material of such size and arrangements as to suit the construction of the machine. The ballot labels for measures may contain a condensed statement of purpose for each measure to be voted on, accompanied by the words "Yes" and "No." The title of the offices on the ballot labels shall be printed in type as large as the space for the office will reasonably permit. Where more than one (1) candidate can be voted for an office, there shall be printed below the office title words indicating the number the voter is lawfully entitled to vote for out of the whole number of candidates, such as "Vote for Two."

(2) The ballots and ballot labels required to be furnished for primary elections may be of different colors for the political parties who are nominating or electing candidates.

(3) The "judiciary ballot" may be added to the ballot labels for the political parties. Candidates for the above offices will be shown under the general title of nonpartisan judicial candidates.

(4) When a vote tally system is used, the county clerk shall prepare the ballots as nearly as practicable as required by law.

**History:** S.L. 1970, Ch. 140; S.L. 1994, Ch. 54

**NOTE 34-2418:** Requires that ballots for the general election be on white paper and ballots for the primary may be different colors for the political parties who are nominating or electing candidates. The colored paper option is a carry-over from the pick-your-party primary election days.

Ballot format provided by Secretary of State.

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**34-2419. Rotation of names of candidates.** In each primary and general election when two (2) or more persons are candidates for nomination or election to the same office, the county clerk or the clerk of a city, district or other municipality in which voting machines or vote tally systems are used shall rotate the names of candidates as directed by the secretary of state.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2419:** Requires rotation of candidates when 2 or more persons are under the same office title.

See Secretary of State's Directive on page J-5 for the Directive on Ballot Rotation.

**34-2420. Examinations of face of machine during election.** The election board shall occasionally examine the face of the voting machine and the ballot labels to determine that the machine and the ballot labels have not been damaged or tampered with.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2420:** Requires the election board members to examine ballot pages and voting machine for damage or tampering on day of election.

**34-2421. Procedure if a voting machine becomes inoperative.** (1) If any voting machine used in any election precinct, during or before the time the polls are opened, becomes damaged so as to render it inoperative in whole or in part, an election board clerk immediately shall notify the election officer charged with the care of the machine.

(2) If possible, the election officer so notified shall repair the machine at once or substitute another machine for the damaged machine.

(3) If no other machine can be procured for use at the election and the damaged machine cannot be repaired in time for further use at the election, or where in the discretion of a majority of the members of the election board it is impracticable to use the machine, the election board shall permit the voters to use paper ballots prepared as in cases where paper ballots are used. The paper ballots shall be furnished to the election board by the county clerk. The paper ballots shall be issued, voted and deposited in ballot boxes in as nearly the same manner as provided by law, except that the paper ballots shall not be tallied and returned by the election board. Instead, these paper ballots shall be delivered to the county clerk for his tally and canvass.

**History:** S.L. 1970, Ch. 140; S.L. 1971, Ch. 5

**NOTE 34-2421:** In the event a voting machine becomes inoperative and repair is not possible, paper ballots are prepared for voting. When paper ballots have been used, they will not be tallied by the election board but delivered to the County Clerk for tallying.

**34-2422. Closing of polls — Delivery of ballots to clerk before polls closed.** (1) At the hour for closing the polls, the election board shall declare the polls of the election closed and shall not permit any further voting. However, electors who are, at the hour of closing, within the polling room or awaiting their turn to vote shall be considered as having begun the act of voting and shall be permitted to cast their votes.

(2) At any time prior to the closing of the polls provision may be made for the delivery of voted ballots to the county clerk or the clerk of a city, district or other political subdivision for counting. If such procedure is adopted, the result of this early count shall not be released to the public until after 8:00 p.m. of election day.

**History:** S.L. 1971, Ch. 5

**NOTE 34-2422:** Provides for an early pick up of ballots and requires results not be released from early pick up until after the polls close.

## IDAHO CODE: TITLE 34, CHAPTER 24

**34-2423. Absent voting by voting machine or paper ballot.** The county clerk may provide that absent voting shall be either by voting machine or by marking a paper ballot or a combination of both. In any of the foregoing cases he may establish one (1) absent elector unit to handle and process absent elector ballots for each legislative district within his county and shall cause sufficient ballots of the proper kind or kinds to be provided.

Voted ballots shall be retained by the county clerk until election day when they shall be transferred to the ballot processing center and thereafter made a part of the election returns.

**History:** S.L. 1970, Ch. 140; S.L. 1976, Ch. 73

**NOTE 34-2423:** Provides for an absentee polling place at the clerk's office. Absentee ballots are to be retained by the County Clerk to be processed on election day either at the counting center or to the polls if precinct vote tally systems are in use.

**34-2424. Paper ballots used in conjunction with voting machines.** In any election where voting machines or vote tally systems are used:

- (1) Paper ballots may be used to record the electors' votes for party offices.
- (2) Paper ballots may be used to record the electors' votes for or against municipal candidates or measures.
- (3) Paper ballots which are used in conjunction with voting machines may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct or polling location for elections conducted pursuant to chapter 14, title 34, *Idaho Code*.
- (4) Ballots or ballot cards may be returned to the office of the county clerk for counting.
- (5) In the event that paper ballots are used in conjunction with voting machines or vote tally systems to record write-in votes, these paper ballots may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct or polling location for elections conducted pursuant to chapter 14, title 34, *Idaho Code*.

**History:** S.L. 1970, Ch. 140; S.L. 2012, Ch. 211

**NOTE 34-2424:** Requires paper ballots to be returned to the County Clerk's office to be counted and tallied.

**34-2425. Preparation and distribution of sample ballots.** (1) At each primary, general and special election there shall be provided as many sample ballots as the county clerk considers necessary. The sample ballots shall be prepared and distributed as provided by law.

(2) For each primary, general and special election the county clerk shall cause to be published a facsimile, except as to size, of the sample ballot required in subsection (1) of this section.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2425:** Requires a facsimile, except as to size, of the sample ballot to be published. The sample ballot is published with the second notice of election by Secretary of State directive. Requires County Clerk furnish sample ballots for distribution.

**34-2426. Exhibition of voting machines for instruction of voters.** (1) Before each election at which voting machines are to be used the county clerk shall place on public exhibition a suitable number of voting machines for the proper instruction of voters. The machines shall be arranged and equipped with ballot labels so as to best illustrate the method of voting at that election and so far as practicable, shall contain:

- (a) The names of the offices to be filled.
- (b) The names of the candidates to be voted for, together with their proper party designations in case of party elections.
- (c) Statements of the measures to be voted on.

## IDAHO CODE: TITLE 34, CHAPTER 24

(2) In addition to supplying sample ballots, the county clerk shall, before the election, take reasonable additional steps to familiarize the voters with a diagram showing the face of the voting machine after the official ballot labels are arranged thereon with illustrated instructions how to vote, and with the locations of the voting machines that are on public exhibition.

(3) Before each election at which a vote tally system is to be used, the county clerk shall make every reasonable effort to acquaint the electors within his county with the ballot format and the marking system.

**History:** S.L. 1970, Ch. 140

**NOTE 34-2426:** Before each election in which voting machines are used the clerk shall exhibit and have illustrated instructions how to vote. The clerk should make every reasonable effort to acquaint the electors with the ballot format, the marking system and review of the ballot before casting the voted ballot.

Electors shall be instructed on the process to correct a mistake - return the ballot to the poll worker and request another ballot be issued.

**34-2427. Physically disabled voters.** (1) The election board clerks shall instruct electors on how to record their votes on the voting machine or vote tally system, and shall give assistance to any elector who declares that he is unable by reason of physical disability or other handicap to record his vote on the machine or vote tally system, and on request by the elector after he has entered the voting booth, shall give him the necessary information to enable him to record his vote.

(2) Any elector who, because of blindness, physical disability or other handicap, is unable to mark his ballot shall, upon request, receive the assistance of the election board clerks or some other person chosen by the elector in the marking thereof. Such clerks or person shall ascertain the wishes of the elector and mark his ballot in accordance therewith, and shall thereafter give no information regarding such marking. Whenever an elector receives assistance in this manner, a clerk shall make a notation thereof in the combination election record and poll book following the name of the elector.

(3) If any elector, after entering the voting booth, asks for information regarding the operation of the voting machine or marking device, the election board clerks shall give him the necessary information.

**History:** S.L. 1970, Ch. 140; S.L. 1972, Ch. 129; S.L. 2015, Ch 282

**NOTE 34-2427:** When assistance is provided to a physically disabled voter a notation is made in the remarks column. Any elector may ask for information regarding the operation of the voting machine or marking device.

**34-2428. [Repealed - S.L. 2001, Ch. 272]**

**34-2429. Validation of elections.** All elections, including but not limited to bond issue elections, heretofore conducted pursuant to this chapter and all proceedings had or to be had in the authorization and issuance of the bonds authorized thereat, together with all such bonds when issued, are hereby validated, ratified and confirmed, and all such bonds when issued are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which are being contested at the time this act takes effect.

**History:** S.L. 1974, Ch. 3

**34-2430. [Repealed - S.L. 1972, Ch. 129]**

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**Idaho Code**  
**Title 1**  
**Courts And Court Officials**





## Chapter 22: Magistrate Division Of The District Court

**1-2205. District Magistrates Commission — Powers And Duties.** The district magistrates commission shall have the following powers and duties:

(a) To determine the number and location of magistrate judges to be appointed within the judicial district, subject to appropriations by the legislature, pursuant to section 1-2215, Idaho Code; provided, that there shall be at least one (1) resident magistrate judge appointed in each county, except for those counties in which the board of county commissioners, at any time, has adopted by majority vote, without subsequent rescission, a resolution waiving the right to a resident magistrate judge, pursuant to section 31-879, Idaho Code;

(b) To appoint the magistrate judges within the district on a nonpartisan merit basis, except as provided in section 1-2220, Idaho Code;

(c) To conduct studies for the improvement of the administration of justice within the district and to make recommendations for improvements therein to the legislature, the supreme court, the district court and such other governmental agencies as may be interested in or affected by such recommendations.

The actions of the commission pursuant to subsections (a), and (b) of this section shall be subject to disapproval by a majority of the district judges in the district within thirty (30) days after written notice to the district judges of the commission's actions, unless such time be extended for good cause by order of the supreme court.

**History:** S.L. 1969, Ch. 104; S.L. 1973, Ch. 78; S.L. 1977, Ch. 233; S.L. 1980, Ch. 393; S.L. 1981, Ch. 111; S.L. 2008, Ch. 38

### **1-2206. Magistrates — Qualifications — Institute — Exceptions — Office Appointive.**

(1) A magistrate shall be an elector of the state of Idaho and shall reside in the county for which the appointment is made throughout the term of service as magistrate.

(2) To be appointed to the office of magistrate judge a person must, at the time of such appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least five (5) continuous years immediately preceding such appointment.

For purposes of this section, the following terms have the following meanings:

(a) “**Active**,” “**judicial**” and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;

(b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia, or any branch of the United States military; and

(c) “**Elector**” means one who is lawfully registered to vote.

(3) Magistrates shall not take office for the first time as magistrates until they have attended an institute on the duties and functioning of the magistrate's office to be held under the supervision of the supreme court, unless such attendance is waived by the supreme court. All magistrates shall be entitled to their actual and necessary expenses while attending institutes. The supreme court will establish the institute to which this subsection refers and will provide that the institute be held at such other times and for such other purposes as it deems necessary and may require the attendance of magistrates.

(4) Notwithstanding the provisions of subsection (2) of this section, all magistrates holding office on the effective date of this act shall be eligible for appointment to the office of magistrate and for retention in office pursuant to section 1-2220, Idaho Code.

**History:** S.L. 1969, Ch. 104; S.L. 1979, Ch. 149; S.L. 1982, Ch. 217; S.L. 1982, Ch. 298; S.L. 2015, Ch. 310

**1-2207. Magistrates — Term — Removal — Vacancies.** (1) The term of office of a magistrate shall be four (4) years. The term of office of a magistrate shall begin on the second Monday of January of the odd-numbered year next succeeding his election.

(2) Vacancies in the office of magistrate shall be filled by appointment pursuant to section 1-2205, Idaho Code.

(3) Any magistrate appointed pursuant to section 1-2205, Idaho Code, and subsection (2) of this section, shall exercise the authority of a magistrate from the date of taking office. A magistrate appointed after the effective date of this act may be removed from office within eighteen (18) months of his appointment by majority vote of all the voting members of the district magistrates commission without cause in accordance with procedures to be established by rules of the Supreme Court.

(4) A magistrate may be removed from office before the expiration of the term to which he was appointed or elected as provided by section 1-2103A, Idaho Code.

**History:** S.L. 1969, Ch. 104; S.L. 1973, Ch. 78; S.L. 1974, Ch. 116; S.L. 1977, Ch. 233; S.L. 1979, Ch. 149; S.L. 1990, Ch. 71

## IDAHO CODE: TITLE 1, CHAPTER 22

**1-2220. Retention Or Nonretention Of Magistrate By Vote.** Any magistrate appointed pursuant to the provisions of section 1-2205, *Idaho Code*, and section 1-2207(2), *Idaho Code*, shall stand for office in the first general election next succeeding the expiration of the eighteen (18) month period established pursuant to section 1-2207, *Idaho Code*. Any magistrate may, not less than ninety (90) days prior to the holding of the general election next preceding the expiration of his term of office, file in the office of the county clerk of the county for which he is a resident magistrate, accompanied by a filing fee of forty dollars (\$40.00), a declaration of candidacy to succeed himself. If a declaration is not so filed by any magistrate, the vacancy resulting from the expiration of his term of office shall be filled by appointment as herein provided, except that any magistrate who does not file shall be ineligible for appointment within the same judicial district until two (2) years following the expiration of his last term of office have expired. If such a declaration is filed, his name shall be submitted at the next general election to the voters eligible to vote within the county for which he is appointed, on a nonpartisan judicial ballot, without party designation, which shall read:

“Shall Magistrate \_\_\_\_\_ (Here insert the name of the magistrate) of \_\_\_\_\_ (Here insert the name of the county) County of the \_\_\_\_\_ (Here insert the judicial district number) Judicial District be retained in office?” (Here provision is to be made for voting “Yes” or “No.”)

The votes shall be canvassed as provided in chapter 12, title 34, *Idaho Code*.

If a majority of those voting on the question vote against retaining him in office, upon the expiration of his term of office, a vacancy shall exist which shall be filled by appointment as provided in section 1-2205, *Idaho Code*, except that the magistrate not retained in office shall be ineligible for appointment within the same judicial district until two (2) years following the expiration of his last term of office have expired.

If a majority of those voting on the question vote for retaining him in office, the county clerk shall issue him a certificate of election as provided in section 34-1209, *Idaho Code*, and said magistrate shall, unless removed for cause, remain in office for an additional term of four (4) years, and at the expiration of each such four (4) year term shall be eligible for retention in office by election in the manner herein prescribed.

**History:** S.L. 1973, Ch. 78; S.L. 1974, Ch. 116; S.L. 1977, Ch. 233; S.L. 1979, Ch. 149; S.L. 2003, Ch. 55

**1-2220A. Reporting of Campaign Contributions and Expenditures — Magistrate Retention Elections.** The provisions of sections 67-6601 through 67-6616, *Idaho Code*, and sections 67-6623 through 67-6630 *Idaho Code*, insofar as they relate to the reporting of campaign contributions and expenditures, are hereby made applicable to all magistrate retention elections except that, with the exception of section 67-6623 (f), *Idaho Code*, the clerk of the district court shall stand in place of the secretary of state as it relates to the provisions cited in this section.

**History:** S.L. 2001, Ch. 291; S.L. 2005, Ch. 254

## Chapter 24: Court Of Appeals IDAHO CODE: TITLE 34, CHAPTER 9

**1-2404. Number Of Judges — Qualifications — Conduct And Discipline — Term — Election — Selection — Compensation.** (1) The court of appeals shall consist of four (4) judges, and shall sit in panels of not less than three (3) judges each.

(2) To be elected or appointed to the office of judge of the court of appeals a person must, at the time of such election or appointment, meet all of the following qualifications:

- (a) Be at least thirty (30) years of age;
- (b) Be a citizen of the United States and an elector of the state of Idaho;
- (c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election or appointment;
- (d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such an election or appointment; and
- (e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election or appointment.

For purposes of this section, the following terms have the following meanings:

- (a) “**Active**,” “**judicial**” and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;
- (b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia, or any branch of the United States military; and
- (c) “**Elector**” means one who is lawfully registered to vote.

(3) A judge of the court of appeals shall be governed by the code of judicial conduct as promulgated by the Idaho supreme court, and shall be subject to removal, discipline, or retirement pursuant to section 1-2103, *Idaho Code*.

(4) (a) Judges of the court of appeals shall be appointed by the governor effective the first Monday of January, 1982, for the following initial terms one (1) judge shall be appointed for a term to expire on the first Monday of January, 1985, one (1) judge shall be appointed for a term expiring two (2) years later, and one (1) judge shall be appointed for a term expiring two (2) further years later. Thereafter, the term of office of a judge of the court of appeals shall be six (6) years.

(b) Vacancies in the office of judge of the court of appeals shall be filled in the same manner as vacancies in the office of supreme court justice or district judge.

(c) The positions of judges of the Idaho court of appeals shall first be filled as vacancies. The judicial council shall submit to the governor its recommendations for the offices at the earliest practicable time after the effective date of this act. The governor may make the appointment at any time thereafter, to be effective the first Monday of January, 1982, for the terms set forth in subsection(4)(a) of this section.

(d) In making its nominations for the initial vacancies to be created by this act, the Idaho judicial council shall submit the names of not less than six (6) nor more than nine (9) qualified persons for the initial three (3) vacancies to be created by this act. Otherwise, the judicial council shall submit the names of not less than two (2) nor more than four (4) persons for each vacancy. The governor shall appoint the judges, identifying each appointment by the length of the term of appointment.

(e) Nominations and appointments to fill initial or subsequent vacancies shall be made with due regard for balanced geographical membership of the court of appeals.

(f) Subsequent terms of office of a judge who has been appointed to the court of appeals shall be subject to a statewide nonpartisan election to be held in the primary election next preceding the expiration of an appointed term in the same method and manner as a justice of the supreme court.

(g) A fourth judge of the court of appeals shall be appointed by the governor effective the first Monday of January, 2009, for an initial term to expire on the first Monday of January, 2013. Thereafter, the term of office for this position shall be six (6) years. The judicial council shall submit the names of not less than two (2) nor more than four (4) persons for the initial vacancy in this position under the procedure set forth in section 1-2102, *Idaho Code*. This position shall be subject to all of the provisions relating to qualifications, removal, discipline, retirement, filling of vacancies, election and compensation set forth in this chapter.

(5) Judges of the court of appeals shall receive an annual salary in an amount of one thousand dollars (\$1,000) less than the annual salary of a supreme court justice and except for judges who have made an election to remain in the public employee retirement system of Idaho pursuant to section 1-2011, *Idaho Code*, shall receive compensation upon retirement as provided in chapter 20, title 1, *Idaho Code*.

**History:** S.L. 1980, Ch. 245; S.L. 1981, Ch. 271; S.L. 1985, Ch. 29; S.L. 1998, Ch. 126; S.L. 2008, Ch. 24; S.L. 2015, Ch. 310



**Idaho Code**  
**Title 18**  
**Crimes And Punishments**





## Chapter 3: Nature And Extent Of Punishment In General

**18-310. Imprisonment — Effect on civil rights and offices.** (1) A sentence of custody to the Idaho state board of correction suspends all the civil rights of the person so sentenced, including the right to refuse treatment authorized by the sentencing court, and forfeits all public offices and all private trusts, authority or power during such imprisonment: provided that any such person may bring an action for damages or other relief in the courts of this state or have an action brought against such person; and provided further that any such person may lawfully exercise all civil rights that are not political during any period of parole or probation, except the right to ship, transport, possess or receive a firearm, and the right to refuse treatment authorized by the sentencing court.

(2) Upon final discharge, a person convicted of any Idaho felony shall be restored the full rights of citizenship, except that for persons convicted of treason or those offenses enumerated in paragraphs (a) through (ii) of this subsection the right to ship, transport, possess or receive a firearm shall not be restored. As used in this subsection, “**final discharge**” means satisfactory completion of imprisonment, probation and parole as the case may be.

- (a) Aggravated assault (18-905, 18-915, Idaho Code);
- (b) Aggravated battery (18-907, 18-915, Idaho Code);
- (c) Assault with intent to commit a serious felony (18-909, 18-915, Idaho Code);
- (d) Battery with intent to commit a serious felony (18-911, 18-915, Idaho Code);
- (e) Burglary (18-1401, Idaho Code);
- (f) Crime against nature (18-6605, Idaho Code);
- (g) Domestic battery, felony (18-918, Idaho Code);
- (h) Enticing of children, felony (18-1509, Idaho Code);
- (i) Forcible sexual penetration by use of a foreign object (18-6608, Idaho Code);
- (j) Indecent exposure, felony (18-4116, Idaho Code);
- (k) Injury to child, felony (18-1501, Idaho Code);
- (l) Intimidating a witness, felony (18-2604, Idaho Code);
- (m) Lewd conduct with a minor or child under sixteen (18-1508(3), (4), (5) and (6), Idaho Code);
- (n) Sexual abuse of a child under sixteen (18-1506, Idaho Code);
- (o) Sexual exploitation of a child (18-1507, Idaho Code);
- (p) Felonious rescuing prisoners (18-2501, Idaho Code);
- (q) Escape by one charged with, convicted of or on probation for a felony (18-2505, Idaho Code);
- (r) Unlawful possession of a firearm (18-3316, Idaho Code);
- (s) Degrees of murder (18-4003, Idaho Code);
- (t) Voluntary manslaughter (18-4006(1), Idaho Code);
- (u) Assault with intent to murder (18-4015, Idaho Code);
- (v) Administering poison with intent to kill (18-4014, Idaho Code);
- (w) Kidnapping (18-4501, Idaho Code);
- (x) Mayhem (18-5001, Idaho Code);
- (y) Rape (18-6101, Idaho Code);
- (z) Robbery (18-6501, Idaho Code);
- (aa) Ritualized abuse of a child (18-1506A, Idaho Code);
- (bb) Cannibalism (18-5003, Idaho Code);
- (cc) Felonious manufacture, delivery or possession with the intent to manufacture or deliver, or possession of a controlled or counterfeit substance (37-2732, Idaho Code);
- (dd) Trafficking (37-2732B, Idaho Code);
- (ee) Threats against state officials of the executive, legislative or judicial branch, felony (18-1353A, Idaho Code);
- (ff) Unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home (18-3317, Idaho Code);
- (gg) Unlawful possession of destructive devices (18-3319, Idaho Code);
- (hh) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- (ii) Attempt (18-306, Idaho Code), conspiracy (18-1701, Idaho Code), or solicitation (18-2001, Idaho Code), to commit any of the crimes described in paragraphs (a) through (hh) of this subsection.
- (jj) The provisions of this subsection shall apply only to those persons convicted of the enumerated felonies in paragraphs (a) through (ii) of this subsection on or after July 1, 1991, except that persons convicted of the felonies enumerated in paragraphs (s) and (t) of this subsection, for any degree of murder or voluntary manslaughter, shall not be restored the right to ship, transport, possess or receive a firearm, regardless of the date of their conviction if the conviction was the result of an offense committed by use of a firearm.

(3) A person not restored to the civil right to ship, transport, possess or receive a firearm may make application to the commission of pardons and parole to restore the civil right to ship, transport, possess or receive a firearm. The commission shall not accept any such application until five (5) years after the date of final discharge. The commission shall conduct the

### IDAHO CODE: TITLE 18, CHAPTER 3

proceeding upon such application pursuant to rules adopted in accordance with the law. The commission shall not restore the right to ship, transport, possess or receive a firearm to any person convicted of murder in the first degree (18-4003, *Idaho Code*), murder in the second degree (18-4003, *Idaho Code*), or any felony enumerated in paragraphs (a) through (ii) of subsection (2) of this section, upon which the sentence was enhanced for the use of a firearm during the commission of said felony.

(4) Persons convicted of felonies in other states or jurisdictions shall be allowed to register and vote in Idaho upon final discharge which means satisfactory completion of imprisonment, probation and parole as the case may be. These individuals shall not have the right restored to ship, transport, possess or receive a firearm in the same manner as an Idaho felon as provided in subsection (2) of this section.

**History:** S.L. 1972, Ch. 336; S.L. 1981, Ch. 182; S.L. 1982, Ch. 368; S.L. 1991, Ch. 202; S.L. 1993, Ch. 120; S.L. 1993, Ch. 184; S.L. 1998, Ch. 171; S.L. 2004, Ch. 166; S.L. 2016, Ch. 296

## Chapter 23: Elections

**18-2301. Official neglect or malfeasance.** Every person charged with the performance of any duty, under the provisions of any law of this state relating to elections, who wilfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, unless a different punishment for such acts or omissions is prescribed by this Code, punishable by fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the state prison not exceeding five (5) years, or by both and shall in addition thereto, and regardless of whether or not criminal prosecution is undertaken, be subject to removal from office as provided in title 19, chapter 41, *Idaho Code*.

**History:** S.L. 1972, Ch. 336

**18-2302. False swearing as to qualifications as voter.** Every person who, upon his right to vote being challenged at any election held under the laws of this state, wilfully, corruptly and falsely swears touching his qualifications as a voter, is guilty of perjury.

**History:** S.L. 1972, Ch. 336

**18-2303. Refusal to be sworn or to answer questions.** Every person who, after being required by the board of judges at any election, refuses to be sworn, or who, after being sworn, refuses to answer any pertinent question propounded by such board, touching his right, or the right of any other person, to vote, is guilty of a misdemeanor.

**History:** S.L. 1972, Ch. 336

**18-2304. Procuring illegal votes.** Every person who procures, aids, assists, counsels or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote, is guilty of a misdemeanor.

**History:** S.L. 1972, Ch. 336

**18-2305. Intimidation, corruption and frauds.** Every person who, by force, threats, menaces, bribery, or any corrupt means, either directly or indirectly attempts to influence any elector in giving his vote, or to deter him from giving the same, or attempts by any means whatever, to awe, restrain, hinder or disturb any elector in the free exercise of the right of suffrage, or furnishes any elector wishing to vote, who can not read, with a ticket, informing or giving such elector to understand that it contains a name written or printed thereon different from the name which is written or printed thereon, or defrauds any elector at any such election, by deceiving and causing such elector to vote for a different person, for any office, than he intended or desired to vote for; or who, being officer, judge, or clerk of any election, while acting as such, induces, or attempts to induce, any elector, either by menace or reward, or promise thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor.

**History:** S.L. 1972, Ch. 336

**18-2306. Illegal voting or interference with election.** Every person not entitled to vote, who fraudulently votes, and every person who votes more than once at any one election, or knowingly hands in two (2) or more tickets folded together, or changes any ballot after the same has been deposited in the ballot box, or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll list, or ballots, or ballot box, for the purpose of breaking up or invalidating such election, or wilfully detains, mutilates, or destroys any election returns, or in any manner so interferes with the officers holding such election or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election or canvass from being fairly held and lawfully conducted, is guilty of a felony.

**History:** S.L. 1972, Ch. 336

**18-2307. Attempting to vote when not qualified, or to repeat voting.** Every person not entitled to vote, who fraudulently attempts to vote, or who, after being entitled to vote, attempts to vote more than once at any election, is guilty of a misdemeanor.

**History:** S.L. 1972, Ch. 336

**18-2308. Attempt of officer to ascertain vote.** Every officer, judge, or clerk of an election, who, previous to putting the ballot of an elector in the ballot box, attempts to find out any name on such ballot, or who opens, or suffers the folded ballot of any elector that has been handed in, to be opened or examined previous to putting the same into the ballot box, or who makes, or places any mark or device on any folded ballot, with a view to ascertain the name of any person for whom the elector has voted, or who, without the consent of the elector, discloses the name of any person which such officer, judge, or clerk has fraudulently or illegally discovered to have been voted for by such elector, is punishable by fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars \$1,000).

**History:** S.L. 1972, Ch. 336; S.L. 2006, Ch. 71

## IDAHO CODE: TITLE 18, CHAPTER 23

**18-2309. Officers attempting to change result.** Every officer or clerk of election who aids in changing or destroying any poll list, or in placing any ballots in the ballot box, or taking any therefrom, or adds, or attempts to add, any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted or adds to or mixes with, or attempts to add to or mix with the ballots polled any other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election, or allows another to do so, when in his power to prevent it, or carries away or destroys, or knowingly allows another to carry away or destroy, any poll list, ballot box or ballots lawfully polled, is guilty of a felony.

**History:** S.L. 1972, Ch. 336

**18-2310. Forging or counterfeiting returns.** Every person who forges or counterfeits returns of an election purporting to have been held at a precinct, town, or ward where no election was in fact held, or wilfully substitutes forged or counterfeit returns of election in the place of the true returns for a precinct, town, or ward where an election was actually held, is guilty of a felony.

**History:** S.L. 1972, Ch. 336

**18-2311. Adding to or subtracting from votes.** Every person who wilfully adds to or subtracts from the votes actually cast at an election, in any returns, or who alters such returns, is guilty of a felony.

**History:** S.L. 1972, Ch. 336

**18-2312. Aiding and abetting election offenses.** Every person who aids or abets in the commission of any of the offenses mentioned in the four preceding sections, is punishable by imprisonment in the county jail for the period of six (6) months, or in the state prison not exceeding two (2) years.

**History:** S.L. 1972, Ch. 336

**18-2313. Riotous conduct and interference with election.** Any person who wilfully disturbs, or is guilty of any riotous conduct at or near, any election place or voting precinct, with intent to disturb the same, or interferes with the access of the electors to the polling place, or in any manner, with the free exercise of the election franchise of the voters, or any voter there assembled, or disturbs or interferes with the canvassing of the votes, or with the making of the returns, is guilty of a misdemeanor.

**History:** S.L. 1972, Ch. 336

**18-2314. Betting on elections.** Every person who makes, offers, or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast, either in the aggregate or for any particular candidate, or upon the vote to be cast by any person, is guilty of a misdemeanor.

**History:** S.L. 1972, Ch. 336

**18-2315. Election offenses not otherwise provided for.** Unless a different punishment is otherwise prescribed by law, every person who willfully violates any of the provisions of the laws of this state relating to elections is punishable by fine not exceeding \$1,000, or by imprisonment in the state prison not exceeding five (5) years, or by both.

**History:** S.L. 1972, Ch. 336; S.L. 2017, Ch. 293

**18-2316. Tampering with certificates of nomination or ballots.** No person shall falsely make, or make oath to, or fraudulently deface, or fraudulently destroy, any certificate of nomination, or any part thereof, or file, or receive for filing, any certificate of nomination, or letter of withdrawal, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or wilfully delay the delivery of any ballots, or forge or falsely make the official endorsement on the ballot, or wilfully destroy any ballot. Every person violating any of the provisions of this section shall be deemed guilty of a felony, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by imprisonment in the penitentiary for a period of not less than one (1) year nor more than five (5) years.

**History:** S.L. 1972, Ch. 336

**18-2317. Destroying or defacing supplies.** No person shall, during the election, remove or destroy any of the supplies or conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to, or on the day of election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of title 34, *Idaho Code*, concerning elections. No person shall, during an election, tear down or deface the cards printed for the instruction of voters. Every person willfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not exceeding one thousand dollars (\$1,000.00).

**History:** S.L. 1972, Ch. 336; S.L. 2006, Ch. 71

## IDAHO CODE: TITLE 18, CHAPTER 23

**18-2318. Electioneering at Polls.** (1) On the day of any primary, general or special election, no person may, within a polling place, or any building in which an election is being held, within one hundred (100) feet thereof:

- (a) Do any electioneering;
- (b) Circulate cards or handbills of any kind;
- (c) Solicit signatures to any kind of petition; or
- (d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(3) Any election officer, sheriff, constable or other peace officer is hereby authorized, and it is hereby made the duty of such officer, to arrest any person violating the provisions of subsections (1) and (2) of this section, and such offender shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor exceeding one thousand dollars (\$1,000).

**History:** S.L. 1986, Ch. 97; S.L. 1997, Ch. 360; S.L. 2006, Ch. 71; S. L. 2007, Ch. 202

**18-2319. Attempt to influence votes.** No person shall attempt to influence the vote of any elector by means of a promise or a favor, or by means of violence or threats of violence, or threats of withdrawing custom or dealing in business or trade, or enforcing the payment of a debt, or discharging from employment, or bringing a suit or criminal prosecution, or any other threat of injury to be inflicted by him, or by any other means.

**History:** S.L. 1972, Ch. 336

**18-2320. Bribery of electors.** No person shall in any way offer a bribe to an elector to influence his vote.

**History:** S.L. 1972, Ch. 336

**18-2321. Fraudulent permission of registration.** Any registry agent, or other person, who in any manner shall wilfully or corruptly permit any person not entitled to registration or to a certificate of registration, to be registered or have a certificate of registration, or who delays or fails to deliver the certified copies of the official register and the check list to the judges of election as required by law, or who permits any person to register after the date on which the registration books close, or who shall otherwise wilfully or corruptly violate any of the provisions of the law governing elections, the penalty for which is not herein specially prescribed, shall be punished for each and every offense by imprisonment in the penitentiary for a term of not less than one (1) year nor more than five (5) years, or by a fine of not less than \$100 nor more than \$2,000, or by both such fine and imprisonment in the discretion of the court.

**History:** S.L. 1972, Ch. 336

**18-2322. Illegal registration by voter.** Any person who shall willfully cause, or endeavor to cause, his name to be registered in any other election district than that in which he resides, or will reside prior to the day of the next ensuing election, except as herein otherwise provided, and any person who shall cause, or endeavor to cause, his name to be registered, knowing that he is not a qualified elector, and will not be a qualified elector on or before the day of the next ensuing election, in the election district in which he causes or endeavors to cause such registry to be made, and any person who shall induce, aid or abet anyone in the commission of either of the acts in this section enumerated and described, shall be fined not less than fifty dollars (\$50.00) nor more than one thousand (\$1,000), or be confined in the county jail for not less than one (1) month nor more than six (6) months, or both.

**History:** S.L. 1972, Ch. 336; S.L. 2006, Ch. 71

**18-2323. Placing placards in booths.** Any person or officer of election who shall put, or permit to be put, into a voting booth, any placard, notice or device, except the sample ballots and cards of instruction as by law provided, intended or likely to call the attention of the voter to any candidate, or to urge the voter to vote for any particular candidate, or shall put, or allow anything to be put, into such booths for the use or comfort of the voter whereby the claims of any candidate are urged upon the voter, either directly or indirectly, shall be imprisoned in the county jail not to exceed three (3) months, or fined not to exceed \$500.00, or both.

**History:** S.L. 1972, Ch. 336



**Idaho Code**  
**Title 31**  
**Counties And County Law**





## Chapter 7: Board Of County Commissioners

**31-717. COUNTY INITIATIVE AND REFERENDUM - SIGNATURES REQUIRED - PRINTING OF PETITION - REVIEW OF MEASURES - TIME LIMITS.** The board of county commissioners of each county shall provide by ordinance for direct legislation by the people through the initiative and referendum. For the purposes of this section, “**initiative**” means the right of the people at an election to adopt, amend or repeal legislation. “**Referendum**” means the right of the people at an election to approve or reject legislation adopted by the board of county commissioners. Requirements of the initiative and referendum ordinance adopted shall be as follows:

(1) Petitioners for initiative or referendum shall be equal to twenty per cent (20%) of the qualified electors voting in the county in the last general election;

(2) Initial petitions for referendum containing not fewer than twenty (20) signatures of qualified electors of the county shall be filed not less than thirty (30) days following the final publication of the ordinance to be subject to referendum as provided in section 31-715, *Idaho Code*. After the initial filing of the petition the provisions of subsection (6) of this section shall apply. Completed petitions, with the requisite number of signatures for referendum, shall be filed with the county clerk not more than one hundred eighty (180) days after the date of approval of the form in subsection (6) (d) of this section;

(3) Completed petitions, with the requisite number of signatures for initiative, shall be filed with the county clerk not more than one hundred eighty (180) days after the date of approval of the form in subsection (6) (d) of this section;

(4) All requirements for gathering signatures shall be met by or within the time frames imposed by subsections (2) and (3) of this section;

(5) A special election for initiative or referendum shall be provided as prescribed in section 34-106, *Idaho Code*;

(6) The following requirements for signature, verification of valid petitions, printing of petition, review of measures, and time limits, except as expressly modified herein, shall be as nearly as practicable as provided in sections 34-1801 through 34-1811 and 34-1813 through 34-1822, *Idaho Code*:

(a) Before beginning to circulate any petition for an initiative or for a referendum on any ordinance passed by the board of county commissioners, the person or persons or organization or organizations under whose authority the measure is to be initiated or referred shall send or deliver to the county clerk a copy of such petition duly signed by at least twenty (20) qualified electors of the county which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the prosecuting attorney for the issuance of the certificate of review as provided in section 34-1809, *Idaho Code*.

(b) After receiving a copy of the petition from the county clerk, the county prosecuting attorney may confer with the petitioner and shall, within ten (10) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the prosecuting attorney shall be advisory only and the petitioner may accept or reject them in whole or in part. The prosecuting attorney shall issue a certificate of review to the county clerk certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. Within fifteen (15) working days after the issuance of a certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the ballot measure with the county clerk for assignment of a ballot title. Other requirements shall be as provided in section 34-1809, *Idaho Code*.

(c) Preparation of the ballot title by the prosecuting attorney shall be as prescribed in section 34-809, *Idaho Code*.

(d) After the form of the initiative or referendum petition has been approved by the county clerk, the petition shall be printed by the person or persons or organization or organizations under whose authority the measure is to be initiated or referred and circulated in the county for the signatures of legal voters.

(e) Verification of petition and signatures shall be as prescribed in section 34-1807, *Idaho Code*.

(f) Upon final certification of the petition, the county clerk shall order an election to be held pursuant to section 34-106, *Idaho Code*.

(g) If the county clerk shall refuse to accept and file any petition for the initiative or for the referendum with the requisite number of signatures of qualified electors thereto attached, any citizen may apply, within ten (10) working days after such refusal, to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the county clerk shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the county clerk and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten (10) working days after a decision is rendered.

(h) It shall be unlawful for any person to make any false affidavit concerning any petition in this section or to leave a petition unattended for the purpose of gathering signatures. Any person violating any of the provisions of this subsection shall be guilty of a misdemeanor.

(7) Any measure so initiated by or referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon, and not otherwise.

**History:** S.L. 1977, Ch. 145; S.L. 1993, Ch. 313; S.L. 1994, Ch. 372; S.L. 1996, Ch. 283



## Chapter 8: Powers And Duties Of Board Of Commissioners

**31-871. CLASSIFICATION AND RETENTION OF RECORDS.** (1) County records shall be classified as follows:

(a) “**Permanent records**” shall consist of, but not be limited to, the following: proceedings of the governing body, ordinances, resolutions, building plans and specifications for commercial projects and government buildings, bond register, warrant register, budget records, general ledger, cash books and records affecting the title to real property or liens thereon, and other documents or records as may be deemed of permanent nature by the board of county commissioners.

(b) “**Semipermanent records**” shall consist of, but not be limited to, the following: claims, contracts, canceled checks, warrants, duplicate warrants, license applications, building applications for commercial projects and government buildings, departmental reports, purchase orders, vouchers, duplicate receipts, bonds and coupons, financial records, and other documents or records as may be deemed of semipermanent nature by the board of county commissioners.

(c) “**Temporary records**” shall consist of, but not be limited to, the following: correspondence not related to subsections (1) and (2) of this section, building applications, plans, and specifications for noncommercial and nongovernment projects after the structure or project receives final inspection and approval, cash receipts subject to audit, and other records as may be deemed temporary by the board of county commissioners.

(d) Those records not included in subsection (1) (a), (b) or (c) of this section shall be classified as permanent, semi-permanent or temporary by the board of county commissioners and upon the advice of the office of the prosecuting attorney.

(2) County records shall be retained as follows:

(a) Permanent records shall be retained for not less than ten (10) years.

(b) Semipermanent records shall be kept for not less than five (5) years after date of issuance or completion of the matter contained within the record.

(c) Temporary records shall be retained for not less than two (2) years.

(d) Records may only be destroyed by resolution of the board of county commissioners after regular audit and upon the advice of the prosecuting attorney. A resolution ordering destruction must list, in detail, records to be destroyed. Such disposition shall be under the direction and supervision of the elected official or department head responsible for such records.

(e) The provisions of this section shall control the classification and retention schedules of all county records unless otherwise provided in *Idaho Code* or any applicable federal law.

**History:** S.L. 1993, Ch. 140; S.L. 2000, Ch. 54; S.L. 2001, Ch. 99; S.L. 2010, Ch. 62; S.L. 2011, Ch. 285



## Chapter 19: County Bond Issues

**31-1905. Conduct of bond election.** If the question of bonding the county as herein provided is submitted to the voters, the election shall be held as provided in section ~~34-106~~, *Idaho Code*, and shall be conducted in all respects in conformity with title 34, *Idaho Code*. The number of qualified electors of the county voting at such bond election shall be solely determined by the number of votes cast on the specific question of bonding the county.

**History:** S.L. 1993, Ch. 313; S.L. 1995, Ch. 118



## Chapter 20: County Officers In General

**31-2012. Application of campaign reporting law to certain county elections.** The provisions of sections 67-6601 through 67-6616 and 67-6623 through 67-6630, *Idaho Code*, insofar as they relate to the reporting of campaign contributions and expenditures are hereby made applicable to all elections for county elected officers and countywide measures including countywide recalls in counties of the state, except that the clerk of the district court shall stand in place of the secretary of state.

**History:** S.L. 1991, Ch. 93; S.L. 2005, Ch. 254; S.L. 2012, Ch. 162



**Idaho Code**  
**Title 59**  
**Public Officers In General**





## Chapter 4: Oath Of Office

**59-404. County officers — Time and place of taking oath.** The oath of office of county elective officers shall be taken by the county commissioners before the county recorders of their respective counties, on the second Monday of January succeeding each general election, and on the same day the other county officers shall take and subscribe the official oath before the chairman of the board. Provided, however, in the event of inability to appear for the taking of the oath, for any reason, a duly elected county official may be sworn in and may subscribe to the oath, wherever he may be, provided he appear before an officer duly authorized to administer oaths, and provided further, that any person who is in any branch of the armed forces of the United States of America, may appear before any person qualified to administer oaths, as prescribed in section 51-113, *Idaho Code*, and may take and subscribe the oath of office as provided for in section 59-401, *Idaho Code*, and the oath of office shall have the same force and effect as though it were taken before an officer, legally granted the right to administer oaths within the state of Idaho.

**History:** 1895, p.139, sec. 1; reen.1899, p. 67, sec. 4; reen. R.C. & C.L., sec. 271; C.S., sec. 402; I.C.A., sec. 57-404; am. 1945, Ch. 164, sec. 1, p. 245; S.L. 2017, Ch. 192



## Chapter 9: Resignations And Vacancies

**59-906. County offices — Vacancies.** (1) Except as provided in subsection (2) of this section, all vacancies in any county office of any of the several counties of the state, except that of the county commissioners (who shall be appointed by the governor), shall be filled by appointment by the county commissioners of the county in which the vacancy occurs in accordance with the procedure prescribed below until the next general election, when such vacancy shall be filled by election.

The vacancy shall be filled as follows: the county central committee of the same political party, if any, of the former officer, whose office is vacant, shall submit a list of three (3) nominations to the board of county commissioners within fifteen (15) days from the day the office is vacated. The board of county commissioners shall fill the vacancy by appointment from the submitted list within fifteen (15) days. Should no appointment be made within fifteen (15) days, the county central committee of the political party submitting the nominations shall designate one (1) of the three (3) nominees to fill the vacancy. The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the office. Upon failure of the committee to make a selection before the expiration of the additional fifteen (15) day period, the board of county commissioners shall, within five (5) days, fill the vacancy by appointing a person having the same qualifications at the time of his appointment as those provided by law for election to the office. If the person who has vacated the office has not been affiliated with a political party, the vacancy shall be filled by the board of county commissioners by appointment of a person having the same qualifications at the time of his appointment as those provided by law for election to the office.

(2) When a county elected officer, except a county commissioner, gives a written notice of intent to resign to the board of commissioners of the county of which he is an elected officer, and when the notice of intent to resign specifies the effective date of the resignation, the county central committee of the same political party of the officer whose office is being vacated, may submit a list of three (3) nominations to the board of county commissioners prior to the effective date of the resignation. The board of county commissioners shall fill the vacancy by appointment from the submitted list to be effective on the day following the date of office is vacated by the former officer. The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the office. In the event the county elected officer rescinds his notice of intent to resign by notifying the board of county commissioners in writing prior to the effective date of his resignation, all actions taken by either the county central committee or the board of county commissioners to fill the anticipated vacancy, shall be null and void. If no appointment is made prior to the day the office is vacated, the provisions of subsection (1) of this section shall apply.

**History:** 1899, p. 67, sec. 9; reen. R.S. & C.L., sec. 322; C.S., sec. 458; I.C.A., sec. 57-906; S.L. 1975, Ch. 21, S.L. 1982, Ch. 4; S.L. 1984, Ch. 192; S.L. 1991, Ch. 81

**59-906A. Board of county commissioners — Vacancies — How filled.** In the event of a vacancy on a board of county commissioners, such vacancy shall be filled as herein provided. The county central committee of the same political party, if any, of the former member whose seat is vacant shall submit, within fifteen (15) days, a list of three (3) nominations to the governor. The governor shall fill the vacancy by appointment from the list of three (3) nominations within fifteen (15) days. If no appointment has been made within fifteen (15) days, the county central committee shall designate one (1) of the three (3) nominees to fill the vacancy. The vacancy shall be so filled until the expiration of the term in which the vacancy occurs. The county central committee of the same political party, if any, of the former member, shall select a person who possesses the constitutional qualifications to fill the vacant office to which he is nominated, and who is affiliated with the same political party, if any, as the former member whose seat is vacant. Upon failure of the committee to make such selection before the expiration of the fifteen (15) day period, the governor shall within five (5) days, fill said vacancy by appointing a person having the qualifications above set forth.

**History:** S.L. 1974, Ch. 78



**Idaho Code**  
**Title 67**  
**State Government And State Affairs**





## Chapter 9: Secretary Of State

**67-916. DEMOCRACY FUND.** (1) There is hereby created in the state treasury in the office of the secretary of state the “**Democracy Fund.**” The purpose of the democracy fund is to provide funding for improving the election systems for the benefit of Idaho’s voters carrying out the activities for which payments are made to the state under the federal help America vote act of 2002 (P.L. 107-252) including, but not limited to:

- (a) Establishing and maintaining accurate lists of eligible voters;
- (b) Encouraging eligible voters to vote;
- (c) Improving verification and identification of voters at the polling place;
- (d) Improving equipment and methods for casting and counting votes;
- (e) Recruiting and training election officials and poll workers;
- (f) Improving the quantity and quality of available polling places;
- (g) Educating voters about their rights and responsibilities;
- (h) Assuring access for voters with physical disabilities;
- (i) Carrying out other activities to improve the administration of elections in the state.

(2) The democracy fund shall consist of all moneys appropriated by the legislature, federal moneys that may be available for the purpose of improving Idaho’s election system, county matching funds and funds from any other source.

(3) All interest earned on the investment of idle moneys in the fund by the state treasurer shall be returned to the fund.

(4) Moneys deposited in, or remitted to, the democracy fund are continuously appropriated to the secretary of state for the purpose of paying the expenses of carrying out the activities for which payments are made to this state under the federal help America vote act of 2002 (P.L. 107-252).

**History:** S.L. 2002, Ch. 237; S.L. 2003, Ch 48



**Idaho Code**  
**Title 74**  
**Transparent And Ethical Government**





# Chapter 1: Public Records Act

**74-106. Records exempt from disclosure - Personnel records, personal information, health records, professional discipline.** The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), *Idaho Code*, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records; and

(f) Military records as described in and pursuant to section 65-301, *Idaho Code*.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, *Idaho Code*.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the people who are elderly, indigent, or have mental or physical disabilities, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3)(a), (3)(b) or (3)(d) of section 74-113, *Idaho Code*. Notwithstanding the provisions of section 74-113, *Idaho Code*, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, *Idaho Code*, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, *Idaho Code*, "**employment security information**" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

## IDAHO CODE: TITLE 74, CHAPTER 1

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, *Idaho Code*. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, *Idaho Code*.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, *Idaho Code*, and rules adopted thereunder.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A, *Idaho Code*, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, *Idaho Code*.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, *Idaho Code*.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, *Idaho Code*.

(17) Records of the Idaho state police or department of correction received or maintained pursuant to section 19- 5514, *Idaho Code*, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records as soon as the facility in question has received the report, and no later than the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

(19) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

(a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and

all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, *Idaho Code*, that can be used to locate any individuals in the child support case except in response to a court order.

(22) Records of the Idaho state bar lawyer assistance program pursuant to chapter 49, title 54, *Idaho Code*, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, *Idaho Code*.

(23) Records and information contained in the trauma registry created by chapter 20, title 57, *Idaho Code*, together with any reports, analyses and compilations created from such information and records.

## IDAHO CODE: TITLE 74, CHAPTER 1

(24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, *Idaho Code*.

(25) The physical voter registration application on file in the county clerk's office; however, a redacted copy of said application shall be made available consistent with the requirements of this section. Information from the voter registration application maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon showing that the voter comes within the provisions of subsection (30) of this section or upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, *Idaho Code*, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, *Idaho Code*, other than the address designated by the secretary of state, except under the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency; or
- (b) If directed by a court order, to a person identified in the order.

(28) Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags unless written consent is obtained from the affected person.

(29) Documents and records related to alternatives to discipline that are maintained by the Idaho board of veterinary medicine under the provisions of section 54-2118(1)(b), *Idaho Code*, provided the requirements set forth therein are met.

(30) The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in chapter 58, title 19, *Idaho Code*, except under the following circumstances:

- (a) If directed by a court order, to a person identified in the court order;
- (b) If requested by a law enforcement agency, to the law enforcement agency;
- (c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or
- (d) If the law enforcement officer provides written permission for disclosure of such information.

(31) All information exchanged between the Idaho transportation department and insurance companies, any database created, all information contained in the verification system and all reports, responses or other information generated for the purposes of the verification system, pursuant to section 49-1234, *Idaho Code*.

(32) Nothing in this section shall prohibit the release of information to the state controller as the state social security administrator as provided in section 59-1101A, *Idaho Code*.

(33) Personal information including, but not limited to, property values, personal and business addresses, phone numbers, dates of birth, social security and driver's license numbers or any other identifying numbers or information maintained by the administrator of the unclaimed property law set forth in chapter 5, title 14, *Idaho Code*. Nothing in this subsection shall prohibit the release of names, last known city of residence, property value ranges and general property information by the administrator for the purpose of reuniting unclaimed property with its owner.

(34) Any personal information collected by the secretary of state, pursuant to section 67-906 (1) (b), *Idaho Code*, for the purpose of allowing individuals to access the statewide electronic filing system authorized in section 67-906, *Idaho Code*.

**History:** S.L. 2015, Ch. 140; S.L. 2016, Ch. 359; S.L. 2017, Ch. 146



**Secretary of  
State  
Directives**







**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWRENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2015-7)

While Section 34-1802(3), *Idaho Code*, gives the County Clerk sixty (60) calendar days before the deadline for the submission of signatures to verify initiative petitions, there is no statutory time frame for checking referendum petitions.

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the referendum process, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the following directive:

1. Referendum petitions are required to be submitted to the Secretary of State's Office no later than 60 days after the final adjournment of the session of the state legislature which passed on the bill on which the referendum is demanded.
2. Due to the time-sensitive nature of collection, verification and submission of these petitions, referendum petitions shall have priority over any initiative petitions that may be submitted to the County Clerk's Office at the same time as the referendum petitions.
3. The County Clerk or designated staff shall verify voter's eligibility to sign the petition and compare the voter's signature on file in the County Clerk's Office to the signature as it appears on the on the referendum petitions as quickly as possible.
4. A reasonable time frame for checking and verifying referendum signatures was repealed in 1997 as part of Section 34-1807, *Idaho Code*, which provided as follows:

"The county clerk shall not retain in his possession any such petition or any part thereof for a longer period than two (2) working days for the first 200 signatures thereon, and on (1) additional working day for each additional 200 signatures or fractions thereof, on the sheets presented to him, and at the expiration of such time he shall deliver the same to the person from whom he received it with his certificate attached thereto as above provided."

5. Item 4 above sets for a reasonable minimum. The County Clerk and designated staff should make every effort to check and verify every petition presented to the office.

LAWRENCE DENNEY  
Secretary of State





**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWERENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2015-1)

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the absentee ballot process, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the following directive:

For a Primary and General Election held in an even numbered year, all absentee ballots shall be printed no later than fifty (50) days prior to the election. This directive is necessary to comply with the mailing requirement of section 34-1003(3), *Idaho Code*, which provides for a forty-five (45) day ballot transit time for absentee ballots where the absentee request was received at least forty-five (45) days before an election.

For all other elections, including special district elections held in odd numbered years, all absentee ballots shall be printed no later than forty (40) days prior to the election. This is necessary to allow for at least 30 days transit time of the absentee ballot to the voter and transit back from the voter. However, it is recommended that the County Clerk continue to strive to have absentee ballots mailed by the 45th day before any election to allow for transit to all voters requesting absentee ballots at least forty-five (45) days before an election.

LAWERENCE DENNEY  
Secretary of State





**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWERENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2015-3)

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the ballot rotation process, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the following directive:

Pursuant to Section 34-903(4), *Idaho Code*, ballots for federal, state, county and city offices shall be rotated as outlined in the attached "Ballot Rotation Directive 2015."

LAWERENCE DENNEY  
Secretary of State



# Ballot Rotation Directive - 2015

## PAPER BALLOTS

**Goal:** To have each candidate's name appear at the top of the candidate list for each office before an equal number of voters within a particular county or city.

To accomplish this goal the following steps should be taken.

1. The ballot is laid out in the hierarchy of the offices (i.e., Federal, State, Legislative, County, Judicial, and any other political subdivision candidates, where applicable). The order of all offices, except political subdivisions, will accompany the State's certification of candidates and ballot printing instructions.

2. For each office appearing on the ballot, list the candidates in alphabetical order by surname within each office. This is considered the base rotation and is your first ballot to be printed.

3. Once in the base rotation, begin rotating the candidate names in each office by taking the candidate name that appears at the top of the list and move it to the bottom of the list and move all of the other candidates up by one (1) position. This is your second ballot to be printed.

4. Continue moving the candidate at the top of the list of candidates to the bottom of the list and moving all of the candidates up one (1) position until all candidates appear at the top of the list on a separate ballot to be printed. NOTE: You may have a candidate appear at the top of one race more than once if you have another race with several candidates as you are rotating all races each time. For example: If your largest race has 6 candidates and another race has 4 candidates, the race with 4 candidates will have 2 candidates appear at the top of the list twice and the other 2 candidates will appear at the top of the list once due to the other office having 6 candidates.

5. After the ballots are printed for each rotation, they shall be kept in separate stacks for each change of position (i.e. 6 candidates = 6 rotations = 6 stacks). These stacks are then combined either by hand as listed below or you can have your printer combine (i.e. collate) them for you.

a. For combining by hand: Place each stack in a row side by side in the order in which you printed rotations (i.e. base rotation first, 2nd rotation next, third rotation next, etc . Begin by taking one ballot from each pile in order from left to right starting with the base rotation and placing them in a pile at the end of the row upside down. Continue to take one ballot from each pile in order from left to right until all of the ballots have been combined and placed in the final stack. The purpose of this combining is that every other ballot in the pile of printed sheets shall have the names in different positions as nearly as practicable. This process is referred to as a gathering operation.

b. For combining by the printer: Ask the printer to place the ballots in pads in the same order as you would do if stacking by hand. Your print company may use a collator (i.e. a machine to stack ballots as above) or they may have a printer that will do the same process. The goal is to have every other ballot in the pile or pad of ballots to have the names in a different position as nearly equal.

## OPTICAL SCAN BALLOTS *(Moved from the end)*

**Goal:** To have each candidate's name appear at the top of the candidate list for each office before an equal number of voters within a particular county or city.

The rotation algorithm used by Election Systems and Software (ES&S) ensures that the candidate names will appear on the top of the list on substantially an equal number of ballots based on total registered voters by precinct to within 1% of the total registered voters within a county or district depending upon the race/office. This is part of the service provided by ES&S and is not an extra charge to the county.

Rotation for all optical scan ballots shall be done by (ES&S) unless a county has purchased and is using the Election Management System (EMS). The rotation algorithm in the EMS is the same that is used by ES&S.

The ballot is laid out in the hierarchy of the offices (i.e., Federal, State, Legislative, County, Judicial, and any other political subdivision candidates, where applicable). The order of all offices, except political subdivisions, will accompany the State's certification of candidates and ballot printing instructions.

## SECRETARY OF STATE DIRECTIVES

### **Before ballot rotation can commence the following information is required:**

1. A list of all Federal, State, Judicial, Legislative, and County candidates applicable to that election. Also need for ballot layout but not rotation are any measures or ballot questions required to be placed on the ballot.
2. A list of all precincts in the county including:
  - a. The number of registered voters in each precinct. If you are using an absentee precinct, please refer to Absentee precincts below.
  - b. Annotations by precinct of which offices apply to each precinct (i.e., Congressional District, Legislative District, etc).

Upon receipt of the certification of candidates and ballot measures from the Secretary of State's Office, this information should either be forwarded to your ES&S ballot printing representative or if you are using EMS, you should begin entering this information into EMS as soon as possible. You could begin entering the precincts and registration totals into EMS after the close of registration for the election.

**\*Absentee precincts** -Which rotation is used when there are no registered voters in the precinct (i.e., an absentee precinct)?

### **One Legislative District County**

The rotation appearing before the voters in the precinct with the smallest number of registered voters should be the rotation used in the absentee precinct.

### **Multiple Legislative District County**

The number of Legislative Districts within a county determines the number of absentee precincts, unless your county has multiple Congressional Districts then those are also taken into account along with Legislative Districts when determining the number of absentee precincts required. A different rotation for each absentee precinct must be used. Begin by placing the candidates in alphabetical order by surname within each office. This is considered the base rotation and is your first rotation which is used for your first absentee precinct. Then rotate in consecutive order, for the remaining absentee precincts.

## **DIGITAL SCAN BALLOTS**

**Goal:** To have each candidate's name appear at the top of the candidate list for each office before an equal number of registered voters within a particular county or city.

The ballot is laid out in the hierarchy of the offices (i.e., Federal, State, Legislative, County, Judicial, and any other political subdivision candidates, where applicable). The order of all offices, except political subdivisions, will accompany the State's certification of candidates and ballot printing instructions.

### **Before ballot layout and rotation can commence, the following information is required:**

1. A list of all Federal, State, Legislative, Judicial and County candidates applicable to that election. Also need for ballot layout but not rotation are any measures or ballot questions required to be placed on the ballot.
2. A list of all precincts in the county including:
  - a. The number of registered voters in each precinct. If you are using an absentee precinct, please refer to Absentee precincts below.
  - b. Annotations by precinct of which offices apply to each precinct (i.e., Congressional District, Legislative District, etc.).

### **For counties with a single Legislative District:**

Once this information has been gathered and immediately following receipt of the certification of candidates and ballot measures from the Secretary of State's Office, ballot layout begins by calculating the required number of ballot faces (i.e. rotations) and determining the rotation for each precinct. Once you have the rotation assignment completed, you can then begin entering the Office Titles, candidate names and ballot measures or questions into the ballot layout application and designating the rotation for each precinct.

## SECRETARY OF STATE DIRECTIVES

To calculate the required number of rotations or ballot faces, the largest number of candidates for any single office on a ballot determines the number of rotations or ballot faces required. For example: The US Congressman race has 6 candidates running. This means that there are six rotations or ballot faces required.

1. To begin the ballot layout, list the offices in hierarchal order with the candidates in alphabetical order by surname below each appropriate office heading. This is considered the base rotation and is your first ballot face, which is designated #1. NOTE: The write-in line does not rotate.
2. Once in the base rotation, begin rotating the candidate names in each office by taking the candidate name that appears at the top of each list and move it to the bottom of the list and move all of the other candidates up by one (1) position. This is your second ballot face, which is designated #2.
3. Continue moving the candidate at the top of each list of candidates to the bottom of the list and moving all of the candidates up one (1) position until all candidates appear at the top of each list on a separate ballot to be printed. Remember to designate each change as the next number (i.e. #2, #3, #4, etc.) NOTE: You may have a candidate appear at the top of one race more than once if you have another race with several candidates as you are rotating all races each time. For example: If your largest race has 6 candidates and another race has 4 candidates, the race with 4 candidates will have 2 candidates appear at the top of the list twice and the other 2 candidates will appear at the top of the list once due to the other office having 6 candidates.

Once you have determined your rotations, you can begin assigning the rotations to your precincts.

Remember the goal is to have the candidates appear at the top of the list as equal as possible.

1. List the precincts with the number of registered voters for each precinct in order from largest number of registered voters to the smallest.
2. Assign each rotation style to a precinct or a combination of precincts equal to approximately the same number of registered voters.

### Example:

Name of Precinct	# of Registered Voters	Rotation
City 1	535	1
City 2	445	2
Jamestown	387	4
City 4	343	3
Eagle	340	5
Lost River	219	5
St. James	172	6
Williams	158	4
Back Stream	147	6
Dangle	134	3
Fishery	121	2
City 3	107	6
Bern	93	6
Moscow	80	3
Meyers Creek	67	6
Port	27	1
Absentee	0	1
Total	3,375	

## SECRETARY OF STATE DIRECTIVES

Rotation #1 will appear in front of	562 registered voters
Rotation #2 will appear in front of	566 registered voters
Rotation #3 will appear in front of	557 registered voters
Rotation #4 will appear in front of	545 registered voters
Rotation #5 will appear in front of	559 registered voters
Rotation #6 will appear in front of	586 registered voters

**\*Absentee precincts** -Which rotation is used when there are no registered voters in the precinct (i.e., an absentee precinct)?

### **One Legislative District County**

The rotation appearing before the voters in the precinct with the smallest number of registered voters should be the rotation used in the absentee precinct.

### **For counties with Multiple Legislative Districts or Multiple Congressional Districts:**

Once this information has been gathered and immediately following receipt of the certification of candidates and ballot measures from the Secretary of State's Office, ballot layout begins by calculating the required number of ballot faces (i.e. rotations) and determining the rotation for each precinct. Once you have the rotation assignment completed, you can then begin entering the Office Titles, candidate names and ballot measures or questions into the ballot layout application and designating the rotation for each precinct.

**\*Absentee precincts** -Which rotation is used when there are no registered voters in the precinct (i.e., an absentee precinct)?

### **Multiple Legislative District County**

The number of Legislative Districts within a county determines the number of absentee precincts, unless your county has multiple Congressional Districts then those are also taken into account along with Legislative Districts when determining the number of absentee precincts required. A different rotation for each absentee precinct must be used. Begin by placing the candidates in alphabetical order by surname within each office. This is considered the base rotation and is your first rotation which is used for your first absentee precinct. Then rotate in consecutive order, for the remaining absentee precincts.



**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWERENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2015-2)

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the absentee ballot process, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the following directive:

Section 34-1005, *Idaho Code*, requires the County Clerks to “safely keep and preserve all absent electors’ ballots unopened until the time prescribed for delivery to the polls or to the central count ballot processing center.” The statute does not address when absentee ballots are to be delivered to the ballot processing center or how they are to be handled when received at the center, therefore, this directive is being issued.

Due to the number of absentee ballots being received, the time required to prepare them for counting, including the time needed to allow the folded optical scan and digital scan ballots to flatten out before being run through the tabulators and scanners, centrally counted absentee ballots may, at the County Clerk’s discretion, be delivered for processing no earlier than 8:00 a.m., on the Monday preceding the election and the process of opening absentee ballot envelopes may begin. When opening absentee ballots prior to Election Day the following directive must be followed:

- After the signatures on the affidavit envelopes have been verified against the scanned signature in the statewide voter registration system and have been recorded in the system as being received, pursuant to 34-1011, *Idaho Code*, the affidavit envelope may be opened and the voted ballot envelope removed. After the voted ballot envelopes have been removed from all of the affidavit envelopes accepted for counting, the voted ballot envelopes may then be opened and the ballots removed to be laid out to flatten before running them through the tabulators or scanners.
- In order to maintain the integrity and security of the ballots, after they have been removed from the voted ballot envelopes, they are to be kept in a secure location. Access to the ballot storage area shall be controlled by the County Clerk or the Clerk’s designated election official.
- Any time the voted absentee ballots are accessed, there are to be at least two election workers present while the ballots are outside the secure location.
- Arrangements are to be made to have a guard (typically a deputy sheriff, police officer or private security firm) checking, on a regular and frequent basis during non-office hours, to be sure that the location is still secure.
- Watchers, who have been certified by the parties or candidates, are to be informed of the time and place ballot envelopes will be opened, so they can be present if they so choose.
- Tabulation of the ballots shall not begin until Election Day with no results being released until the polls are closed. If the election is a statewide election, the polls must be closed throughout the state prior to any results being released.

LAWERENCE DENNEY  
Secretary of State





**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWERENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2017-2)

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the upkeep of voter registrations, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the following directive:

**“Cancellation of Registrations Following Any General Election of Those Not Voting for Four Years.”**

Within one hundred and twenty (120) days following the date of the general election in an even year, the County Clerk shall examine the election register and the signed statements of challenge made at that election. After this examination, the County Clerk shall immediately cancel the registration of any elector who did not vote at any election in the past four (4) years.

This section shall be construed as to provide for a uniform four (4) year registration period for all electors.

In carrying out the provisions of Section 34-435, *Idaho Code*, after the 2018 General Election, the following procedures are in effect:

1. Check the 2015, 2016, 2017 and 2018 elections to see if an elector has voted. The voting history from municipal and special district elections are included in determining if the voter's registration should be cancelled.
2. Check to ascertain when the elector was registered. Registration must have been in 2014 or before. Electors registered in 2015 and later shall not be purged.
3. If an elector has not voted at any election mentioned in #1 above and registered in 2014 or before then the registration shall be cancelled.
4. The Secretary of State recommends that a notice of cancellation be sent to each elector whose registration has been cancelled for not voting in any election in the last 4 years. The Statewide Voter Registration System can generate the notice.
5. March 6, 2019 is the last day for the County Clerk to cancel registrations pursuant to Section 34-435, *Idaho Code*.
6. Section 34-436, *Idaho Code*, states that all correspondence relating to the cancellation of an elector's registration shall be retained for two (2) years.
7. If there is any doubt concerning the cancellation of an elector's registration do not cancel.

LAWERENCE DENNEY  
Secretary of State





**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWRENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2015-5)

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the application of 34-304, *Idaho Code*, pertaining to challengers and watchers, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the following directive:

Pursuant to 34-304, *Idaho Code*, the authorization, role, election judges' authority and miscellaneous requirements for challengers and watchers shall be conducted as outlined in the attached "Roll of Challengers" and "Role of Watchers" directives.

LAWRENCE DENNEY  
Secretary of State



# Role Of Challengers

## I. CHALLENGERS (Section 34-304, *Idaho Code*)

### A. Authorization

Each political party is entitled to have persons authorized to be challengers. The county chairman and secretary of the political party must submit a written request to the county clerk **no later than twelve (12) days prior to the election** in order for their party's challengers to be present at the polls.

#### Election Date

2nd Tuesday in March

3rd Tuesday in May

Last Tuesday of August

Tuesday following 1st Monday in November

Challengers are also authorized for elections involving ballot issues. Upon written request, the County Clerk can authorize one (1) person in support of the issue (i.e. pro) and one (1) person in opposition to the issue (i.e. con) to be at the polls to serve as both a watcher and challenger.

### B. Role of Challenger

Section 34-304, *Idaho Code*, states that a challenger is allowed to be present to challenge voters as to their qualifications.

In case any person offering to vote is challenged one (1) of the judges must declare the qualifications of an elector to such person. If the person so challenged then declares himself duly qualified, and the challenge is not withdrawn, one (1) of the judges shall then tender him the elector's oath, (EG-7) as prescribed by the secretary of state. No challenged elector shall have the right to vote until he has subscribed to the elector's oath. Upon a challenged elector subscribing the elector's oath, he shall be entitled to vote. (Section 34-1111, *Idaho Code*)

An authorized challenger could also utilize Section 34-431, *Idaho Code*, to challenge the entry of an elector's name as it appears in the poll book. Such a challenge will be noted in the remarks column following the elector's name stating the reason, such as "died," "moved," or "incorrect address." The individual making the challenge shall sign his name following the entry.

### C. Election Judge's Authority

A challenger is not to interfere with the orderly conduct of the election. Challengers should be positioned so as not to be confused as a member of the election board. Persons who are authorized to serve as challengers shall wear a visible name tag identifying their title. The chief election judge in each precinct has the authority to remove any challenger that is disrupting the orderly conduct of the election.

### D. Miscellaneous

Idaho law does not prohibit challengers from leaving the polls and consequently challengers may work in various shifts throughout the day. However, each party may have one challenger in the poll area at any given time.

The election judge in charge of receiving the ballots should proclaim in an audible voice that an elector has voted (Section 34-1107, *Idaho Code*). This procedure is often used by the challengers to record on their own lists that an individual has voted.



# Role Of Watchers

## I. WATCHERS (Section 34-304, *Idaho Code*)

### A. Authorization

Any person authorized by a candidate, several candidates, or political party may be present at the polls to watch the receiving and counting of votes. The candidate or political party must submit a written request to the county clerk no later than twelve (12) days prior to the election in order for their watchers to be present at the polls. One person on each side of an issue on the ballot may also be authorized to be a watcher and challenger.

#### Election Date

2nd Tuesday in March

3rd Tuesday in May

Last Tuesday of August

Tuesday following 1st Monday in November

### B. Role of Watcher

The election and voter tabulation process should be open to public scrutiny without jeopardizing the integrity of the process. Section 34-304, *Idaho Code*, states that a poll watcher is allowed to be present to watch the receiving and counting of the votes.

In counties which utilize a central count optical scan or digital scan voting systems, the ballots are transmitted from the polls to the counting center (usually the courthouse). The ballots are actually counted at the counting center. Central count watchers may, under the direction of the county clerk, observe the receiving of ballots transmitted to the counting center, observe the inspection of ballots prior to processing, and observe the counting of votes as they are processed through the tabulation equipment. However, watchers will not be allowed to handle any voted ballots or interfere with any of these processes. Precinct count counties where the count occurs at the polls shall allow watchers at the polls.

Candidates and/or political parties may have watchers present at the polls and/or counting center. Persons permitted to be present at the polls to watch the counting of hand counted paper ballots shall not absent themselves until the polls are closed (if counting begins before 8:00 p.m.). Authorized watchers present at the polls may work in various shifts throughout the day.

### C. Election Judge's Authority

A watcher is not to interfere with the orderly conduct of the election. Watchers should be positioned so as not to be confused as a member of the election board. Persons who are authorized to serve as watchers shall wear a visible name tag identifying their title. The chief election judge in each precinct has the authority to remove any watcher that is disrupting the orderly conduct of the election.

### D. Miscellaneous

As outlined above watchers at the polls may work in various shifts throughout the day. However, each candidate and/or political party may have only one watcher at the poll area at any given time.

The candidate should not be present at the polls (except to vote). The presence of the candidate would be deemed electioneering. (Section 18-2318, *Idaho Code*)

The election judge in charge of receiving the ballots should proclaim in an audible voice that an elector has voted (Sections 34-1107, *Idaho Code*). This procedure is often used by the watchers to record on their own voter lists that individual has voted.





**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWERENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2015-8)

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the registration and voting of students, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the attached "Students and Voting Residency" directive:

LAWERENCE DENNEY  
Secretary of State



# Students And Voting Residency

With the ability to register and vote on Election Day in Idaho, confusion regarding “voting residence” has been an issue for college students and election officials throughout Idaho.

The main issue regarding college students registering and voting at their school address is the question of whether the student can establish a residence for voting purposes at their school address, and if so, how can this be verified by the county registration official.

The Idaho Constitution (Article VI, Sec. 5) and Idaho Statute (~~34-405~~, *Idaho Code*) provide that no person is deemed to have gained or lost a residence for voting purposes by reason of his presence or absence while a student at any institution of learning. These provisions treat the physical presence of the student as a neutral factor in determining their voting residence, therefore other factors must be considered.

## **Section 34-107, Idaho Code, defines residence for voting purposes:**

“(1) “Residence,” for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section ~~63-602G~~, *Idaho Code*, is filed, and motor vehicle registration.

(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.

(4) A qualified elector shall not be considered to have gained a residence in any county or city of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.”

This code section sets forth the concept of a domicile (i.e. principal or primary home or place of abode of a person).

Idaho courts have held that “for a change of domicile to occur, the fact of physical presence at a dwelling place and the intention to make it a home must concur and when such domicile is established, it persists until another is legally acquired. *Kirkpatrick v. Transtector Systems* 114 Id. 559.”

The rules of the State Board of Education (IDAVA 08.01.04.005.08) define “domicile” as follows:

““Domicile” means an individual’s true, fixed, and permanent home and place of habitation; the place where the individual intends to remain and to which the individual expects to return when he leaves without intending to establish a new domicile elsewhere. The establishment of domicile in Idaho occurs when a person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to another state or acquire a domicile at some other place outside the state and the person has met any other applicable requirements of this chapter.”

The above mentioned statute and administrative rules require that college students, like all other voters, must establish that the location where they seek to register and vote is their domicile or primary place of abode. Registering at the new location certifies that the individual is living in the college community with the intent of abandoning their former domicile and intends to remain permanently, or for an indefinite length of time, in the new location.

Some factors which should be considered when determining whether domicile has been established for voting purposes by a student as well as any other applicant, are as follows:

- Where does the applicant call home?
- Has the applicant registered to vote elsewhere?
- If married, where does his or her spouse reside?

## SECRETARY OF STATE DIRECTIVES

- Where does the applicant keep his personal property?
- Does the applicant have any community ties to the locale he claims as his domicile such as a membership in a church, social or service clubs, etc.?
- Where does the applicant maintain his checking and saving accounts, if any?
- Where does the applicant pay taxes, and what address was listed as the residence on the last income tax return?
- What is the residence listed on the applicant's driver's license?
- If the applicant owns an automobile, where is it registered?
- If the applicant is employed, where is the job located?
- Does the applicant live year round at the claimed domicile, or is the time divided with another location?
  - » If it is divided, how much time is spent elsewhere and for what reason?
- What residence does the applicant list on hunting or fishing licenses, insurance policies, other official papers and documents which required a statement of residence or address or his selective service registration.

Any scenario where the applicant could identify their domicile in either location should be resolved by the applicant making the determination as to which location should be claimed as the residence due to the importance of the right to vote and the other aspects of the applicants life that registering can affect, such as eligibility for their student financial aid package, other grants and scholarships, insurance eligibility, state financial payments, etc.

Students should not register and vote at their college location simply because they failed to register and vote or failed to request an absentee ballot based on their true domicile. Registering to vote is a serious matter, which needs to be considered carefully because if abused it can subject individuals to criminal penalties. Also, there is no federal right to vote for the office of United States President at any location in the United States without meeting the requirements for registering and voting. Individual state laws control registration and voting requirements and, for Idaho, State residency requirements must be met.

Students should be informed about the importance of registering and voting along with meeting the residency requirement and to provide information concerning other states' procedures and deadlines. Students should be participating in the electoral process, however, they need to be registering and voting at their legal domicile.



**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWRENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2017-3)

The Secretary of State, pursuant to the authority of Section 34-202, *Idaho Code*, does hereby issue the following directive:

Write-in candidates may hand out printed stickers with their name to be used in lieu of hand writing in a write-in candidate in precincts where hand counted paper ballots are utilized as long as the electioneering laws covered in 18-2318, *Idaho Code*, are not violated. The attached official opinion should be referenced when printed stickers for write-in candidates are in question.

LAWRENCE DENNEY  
Secretary of State



# OFFICIAL OPINION NO. 73-23

August 29, 1972

TO: James W. Mills  
Candidate for Public Office

FROM: John F. Croner  
Deputy, Attorney General

This will acknowledge receipt of your letter of August 14, 1972, in which you expressed dissatisfaction with certain procedures employed in a recent election. In substance, your questions asked the following:

1. Whether it is permissible to write in a candidate by placing a sticker with his name upon it to the ballot.
2. Whether it is proper for an election official to remind voters that a particular person is actively seeking election through the write-in procedure.
3. Whether it is proper for the stickers which are to be placed in the write-in blanks (*supra*) to be passed out to electors within the building in which the polling place is located.

\*\* In response to your first question, we do not see where there is any violation of the statutes of this state where a sticker with a candidate's name is affixed to the ballot in place of a write-in.

Your second question asks whether the described conduct of the election official might constitute a crime. I think that it could be argued that the described action would constitute "electioneering at the polls," under Section 18-2318, *Idaho Code*. Likewise, it could be argued that the distributing of name stickers inside a building wherein there is a polling place is also "electioneering" under the same statute.

Any complaints which local citizens have respecting the above should be lodged with the County Prosecuting Attorney.

\*\* 34-702A. — In those counties which utilize optical scan ballots an elector shall not place on the ballot a sticker bearing that name of a person, or use any method or device, except writing, to vote for a person whose name is not printed on the ballot.





**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWERENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2017-4)

The Secretary of State, pursuant to the authority of Section 34-202, *Idaho Code*, does hereby issue the following directive:

For 2017, the domestic employee coverage threshold amount for election workers is \$1,800. The attached Employee Coverage Thresholds table from the Social Security Administration should be followed when determining taxable wages for election workers.

LAWERENCE DENNEY  
Secretary of State



# Employment Coverage Thresholds

## Coverage threshold definition

A coverage threshold is an amount of earnings that triggers coverage under the Social Security program. Earnings below the threshold are not taxable under Social Security nor do such earnings count toward future benefits. For most wage earners, there is no coverage threshold; that is, every dollar of wages is covered and taxable.

Federal law requires specific coverage thresholds for self-employed workers, farm workers, domestic employees, and election workers. The thresholds for self-employed workers and farm workers are fixed amounts, but the thresholds for domestic employees and election workers change with changes in the national average wage index.

## Specific coverage thresholds for 2017

For 2017, the domestic employee coverage threshold amount is \$2,000, and the coverage threshold amount for election officials and election workers is \$1,800. The table below shows the coverage thresholds for these two groups beginning with 1994.

## Coverage thresholds for domestic employees and election officials/workers\*

Year	Domestic Employees	Election Workers	Year	Domestic Employees	Election Workers
1994	\$1,000	\$100	2009	\$1,700	\$1,500
1995	\$1,000	\$1,000	2010	\$1,700	\$1,500
1996	\$1,000	\$1,000	2011	\$1,700	\$1,500
1997	\$1,000	\$1,000	2012	\$1,800	\$1,500
1998	\$1,100	\$1,000	2013	\$1,800	\$1,600
1999	\$1,100	\$1,000	2014	\$1,900	\$1,600
2000	\$1,200	\$1,100	2015	\$1,900	\$1,600
2001	\$1,300	\$1,100	2016	\$2,000	\$1,700
2002	\$1,300	\$1,200	2017	\$2,000	\$1,800
2003	\$1,400	\$1,200			
2004	\$1,400	\$1,200			
2005	\$1,400	\$1,200			
2006	\$1,500	\$1,300			
2007	\$1,500	\$1,300			
2008	\$1,600	\$1,400			

*Prior to 1994, the threshold wage amount was \$50 per calendar quarter for domestic employees. For 1994 and later, the threshold applies to calendar year wages.*

*\*The thresholds for election officials & workers apply to calendar year earnings.*





**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWRENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2015-6)

In order to maintain uniformity in the application, operation and interpretation of the election laws of the State of Idaho, and to facilitate the use of a polling place in the case of an emergency or when no other polling place location is available but has the potential of keeping a voter with a disability from being able to enter the polling place to vote, pursuant to Section 34-202, *Idaho Code*, the Secretary of State, does hereby issue the attached "Exemption from Polling Place Accessibility" directive:

LAWRENCE DENNEY  
Secretary of State



# Request For A Polling Place Exemption

In order to enable the Secretary of State to ascertain whether or not a good faith effort has been made to comply with making this polling place accessible to the physically disabled, please answer all the questions as fully and specifically as possible. An exemption will not be granted if there is insufficient information to justify it.

\_\_\_\_\_  
Precint

\_\_\_\_\_  
County

\_\_\_\_\_  
Address of polling place including name of location, e.g. name of church, school, business.

Describe the features of the location that make it inaccessible. (Width of doors, number of steps, height of curbs, lack of parking, etc.)

\_\_\_\_\_  
What modifications would be needed to make this location accessible?

\_\_\_\_\_  
Have you talked to the owners of the property about making these modifications? What was their response?

\_\_\_\_\_  
What efforts have you made to locate an accessible building or one that can be made accessible? Are there any such buildings? Why did you reject them?

\_\_\_\_\_  
Describe any extenuating circumstances that the secretary of state should know in considering this request.

\_\_\_\_\_  
Name of County Clerk

\_\_\_\_\_  
Date of Request

\_\_\_\_\_ Exemption granted.

Expires \_\_\_\_\_.

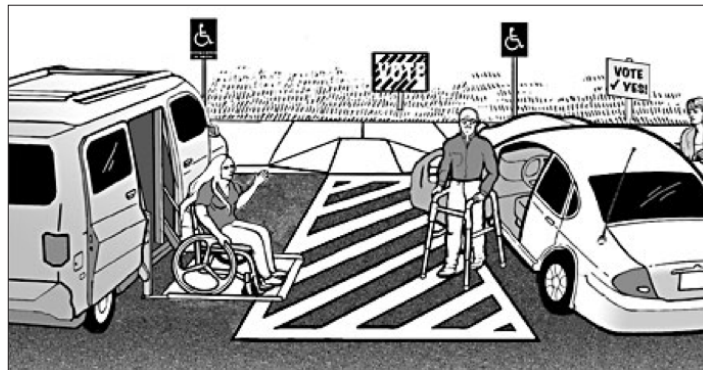


# Guidelines For Polling Place Accessibility

The Help America Vote Act of 2002 requires each unit of local government make “polling places, including the path of travel, exits, and voting areas of each polling facility accessible to individuals with disabilities.” To help assist you in making your polling places accessible, the Secretary of State as Chief Elections Official is issuing the following guidelines address the most common issues. For a complete description of the requirements for accessibility, please refer to the U.S. Department of Justice ADA Standards for Accessible Design. You can see these standards at the following website: [https://www.ada.gov/2010ADAstandards\\_index.htm](https://www.ada.gov/2010ADAstandards_index.htm). For guidance in assessing your polling place accessibility, please refer to the U.S. Department of Justice, ADA Checklist for Polling Places. You can see this checklist at the following website: <https://www.ada.gov/votingck.htm>.

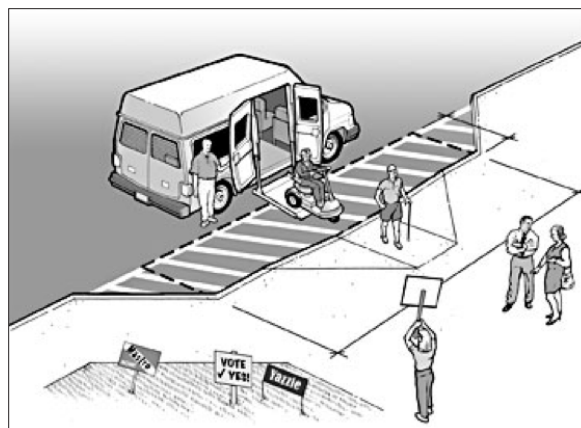
## Parking

If parking is provided for voters, accessible parking must be provided for people with disabilities. An accessible space is composed of three elements: the parking space, an access aisle adjacent to the space that is wide enough to allow voters with a mobility disability to get out of their car or van, and signage designating it as an accessible space. The 2010 Standards require one accessible parking space per 25 parking spaces provided (up to the first 100 spaces). One of six (or fraction of six) accessible parking spaces, but always at least one, must be van accessible. Generally, the access aisle must be at least 60 inches wide for cars and 96 inches wide for vans. Van accessible spaces can also have an access aisle at least 60 inches wide if the width of the van parking space is at least 132 inches. A sign, with the International Symbol of Accessibility, must mark each accessible parking space. Van accessible spaces must be designated as such on the sign at these spaces. Accessible parking spaces and the access aisles serving them must be on a surface that is stable, firm, and slip resistant (e.g., clear of gravel or mud) without wide cracks or broken pavement and located on the closest accessible route to the accessible entrance. The accessible parking spaces and access aisles must also be level to allow a safe transfer from the car to a person’s wheelchair.



## Passenger Drop-off Locations

Some voters with disabilities will be driven to the polling place and dropped off in a passenger drop-off area near the entrance. If the polling place is served by passenger drop-off areas, then at least one drop-off area must be accessible. An accessible drop-off area, also known as an accessible passenger loading zone, must have a level access aisle next to the vehicle space. If a curb separates the access aisle from an accessible route, a curb ramp must be provided so that people with disabilities can get to the accessible route leading to the accessible entrance.



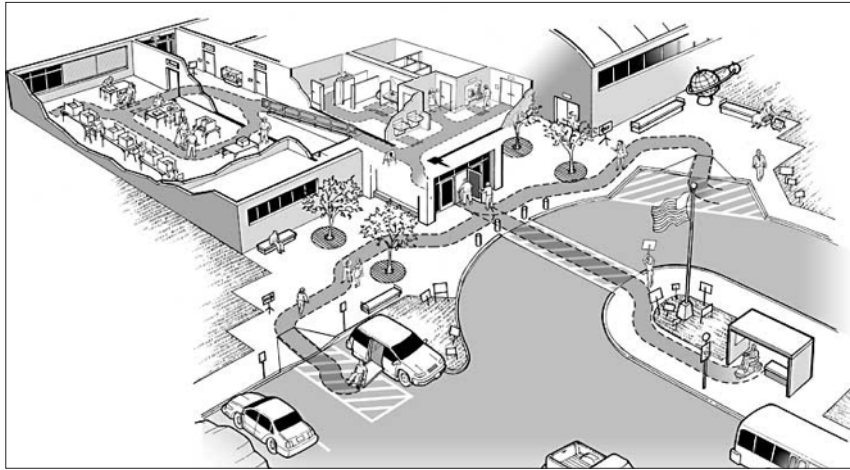
*Accessible passenger drop-off and loading area*

## SECRETARY OF STATE DIRECTIVES

### Accessible Routes (Exterior and Interior)

Once a voter with a disability arrives at the polling site, there must be an accessible route from the accessible parking, passenger drop-off sites, sidewalks and walkways, and public transportation stops to get to the entrance of the voting facility. The accessible route must be at least 36 inches wide. It may narrow briefly to 32 inches wide, but only for a distance of up to 24 inches. (See Part 2 of this document for tips on taking measurements.) Whenever possible, the accessible route must be the same as or near the general circulation path (i.e., the path for general pedestrian use).

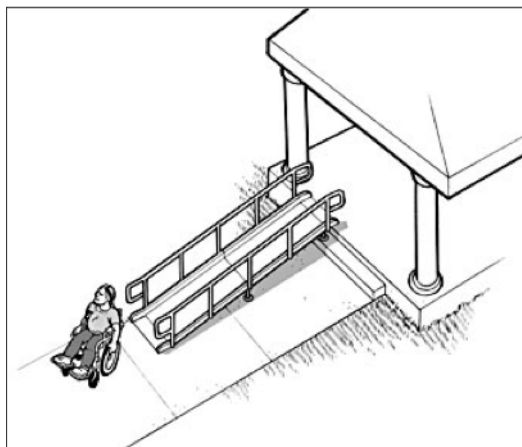
Inside the polling place, there must be an accessible route from the entrance through hallways, corridors, and interior rooms leading to the voting area. The route must be free of abrupt changes in level, steps, high thresholds, or steeply sloped walkways. The accessible route is essential for people who have difficulty walking or who use wheelchairs or other mobility devices to get into the polling place and to the voting area. Where an accessible route is different from the general circulation path, signs will be needed to direct voters with disabilities to the accessible route and to the voting area.



### Ramps

If any part of the accessible route - exterior or interior - has a slope greater than 1:20, it is considered a ramp and must meet the requirements for ramps. (See Part 2 of this document for tips on measuring running slopes and cross slopes.) If any part of the accessible route contains steps, it must be ramped. Even one short step at an entrance or in a hallway can prevent access by a person using a wheelchair, walker, or cane and can make entry difficult for many people who have other mobility disabilities. Interior and exterior ramps must not be too steep and must have a level landing at the bottom and top, and where the ramp changes direction. They must meet the ADA's requirements regarding slope, width, landings, handrails, and edge protection. Ramps with a rise greater than six inches must have handrails and if there are vertical drop offs on the sides, there must be edge protection.

In the past, at some polling places where one or more steps were present, officials or other voters have carried people using wheelchairs up the steps. This practice is not only dangerous for the person being carried, but also for those lifting the wheelchair. It is also degrading to the person using a wheelchair and does not provide independent access. Carrying should never be used as an alternative to providing an accessible way to enter a polling place (or other facility).



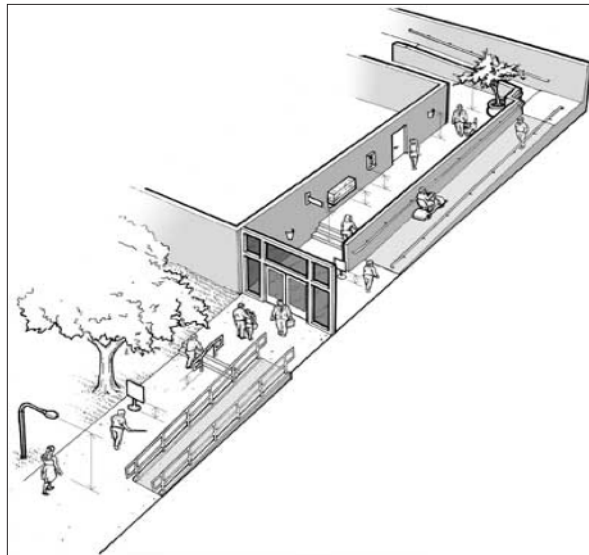
## SECRETARY OF STATE DIRECTIVES

### Protruding Objects

When people who are blind or who have vision loss use a cane to detect hazards, only objects located at 27 inches above the floor or ground or lower are detectable. If an object is higher than 27 inches and wall-mounted, it must not protrude more than four inches into the path of travel. Similarly, post-mounted objects higher than 27 inches must not protrude more than 12 inches into the path of travel. There must be at least 80 inches clear height above the pedestrian route. To make a protruding object detectable: place an object or a barrier, such as a traffic cone, below the protruding object in the cane-detectable area not more than 27 inches above the floor. The undersides of stairs in any route must be enclosed or protected with a cane-detectable barrier, so that people who are blind or have vision loss will not hit their heads on the underside.

Protruding objects are found outdoors on sidewalks and walkways, and indoors in lobby areas, hallways, or voting areas. Because people who are blind or have vision loss may walk on any circulation path, not just the accessible routes, all routes serving or leading to the voting area must be checked for protruding objects.

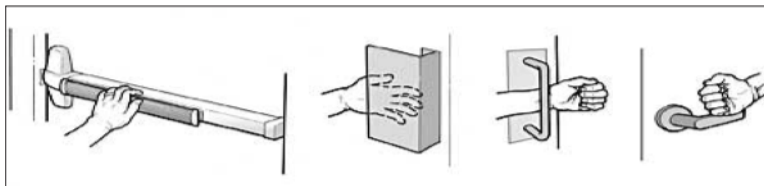
Examples of outdoor protruding objects include post or wall-mounted signs and low-hanging tree limbs. Examples of indoor protruding objects include fire extinguishers and wall-mounted display cases, wall sconces, open staircases, exit signs, overhead signs, banners, and some arched doorways.



*Signs or other objects in the pedestrian route can be a hazard if the bottom is more than 27 inches but less than 80 inches above the route. Objects that overhang the pedestrian route must be at least 80 inches above the route.*

### Building Entrance

A polling place must have at least one accessible entrance. At least one door at the accessible entrance must have a minimum clear width of 32 inches for a voter who uses a wheelchair or other mobility device to pass through the doorway. (See Part 2 of this document for tips on taking measurements.) Door hardware must be useable with one hand without tight grasping, pinching, or twisting of the wrist, so that it is operable by someone with limited mobility in their hands. Doors may not have high thresholds that impede voters who use wheelchairs or other mobility devices in crossing the threshold. Inaccessible entrances must have signs directing voters to the accessible entrance. The accessible entrance must remain unlocked at all times the polling place is open.



### Lifts and Elevators

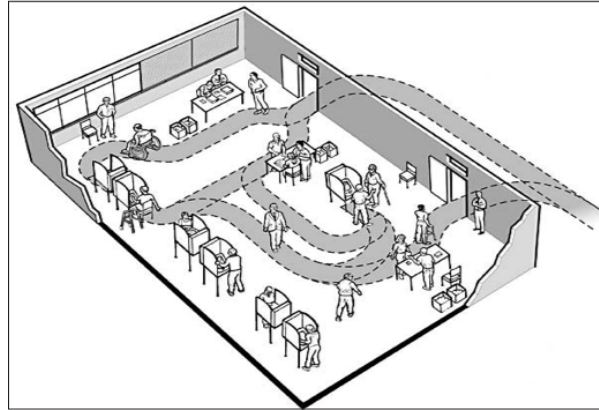
If the voting area is not on the same level as the entrance, there must be an independently operable elevator or lift to provide an accessible route to individuals with disabilities. The door into the elevator or lift and the space within must be wide enough to accommodate wheelchairs and other mobility devices. All controls should be operable without tight grasping,

## SECRETARY OF STATE DIRECTIVES

pinching, or twisting and should be no higher than 48 inches. Chair or seated lifts found on staircases do not comply with the 2010 Standards as they are not suited for many voters with disabilities, including people who use wheelchairs.

### Voting Area

The accessible voting area must have an accessible entrance and adequate circulation and maneuvering space for voters who use wheelchairs or scooters, or who walk with mobility devices, to get in to the voting area, sign in at the check-in table, and go to the voting stations or machines. Within the voting area there must be enough clearance for an individual with a disability to access and use all the voting equipment. Voting machines should be positioned so that the highest operable part is no higher than 48 inches. If voters are expected to vote at counters or tables, there should be a writing surface that provides knee and toe clearance so that a voter who uses a wheelchair may sit at and use the counter or table.



### Taking Measurements

#### Sloped Surfaces

Measuring the slope of a ramp, parking space, pedestrian route, or other ground or floor surface is important to identify whether the surface is accessible. Two slope measurements perpendicular to one another should be taken at each location. One is the running slope that runs parallel to the direction of travel and the other is the cross slope, which runs perpendicular to the running slope.

The amount of slope or grade is described as the proportion of a vertical rise to a horizontal length. It is usually described as:

- a ratio (e.g., 1:20, means one unit of vertical rise for each 20 units of horizontal length);
- or
- a percentage (e.g., 8.33% which equates to a ratio of 1:12 or 4.76 degrees).

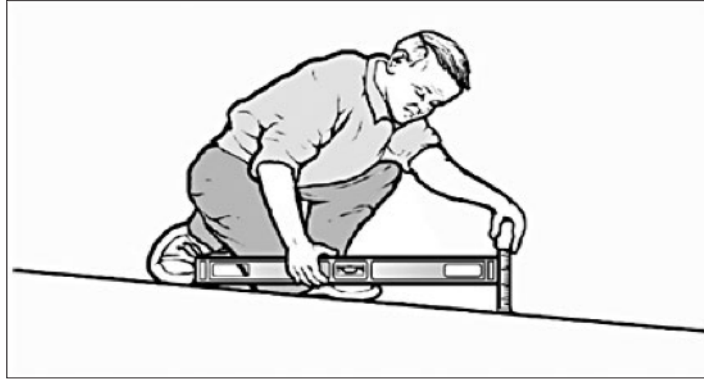
The easiest way to measure slope is to use a digital level. The digital display gives a reading that may be shown as a ratio, percent, or degree. Calibrate the digital level before each use.



*A digital level that can be used with measurements in degrees, percentages, or ratios*

Another way to measure slope is to use a 24 inch level with leveling bubbles and a tape measure. Place the level on the sloped surface in the direction you wish to measure. Rest one end of the level at the highest point of the sloped surface and lift the other end (see image) until the bubble is in the middle of the tube. This is the “level” position. While the level is in this position, measure the distance between the bottom end of the level and the sloped surface below. If the distance is two inches or less, then the slope is 1:12 or less. When the distance is more than two inches, record the distance on the checklist so the exact slope can be calculated later. For measuring cross slope, if the distance measured from the level position is 1/2 inch or less then the slope is 1:48 or less.

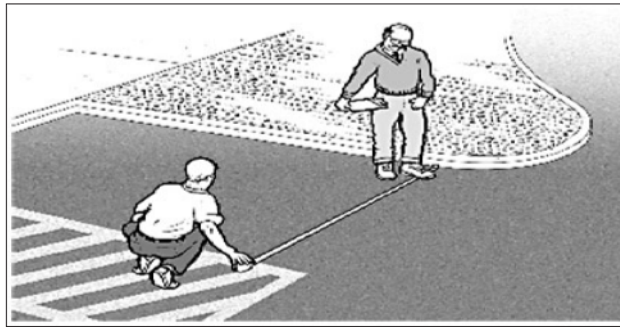
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*Measuring slope using a 24 inch bubble level and tape measure*

### Using the Tape Measure

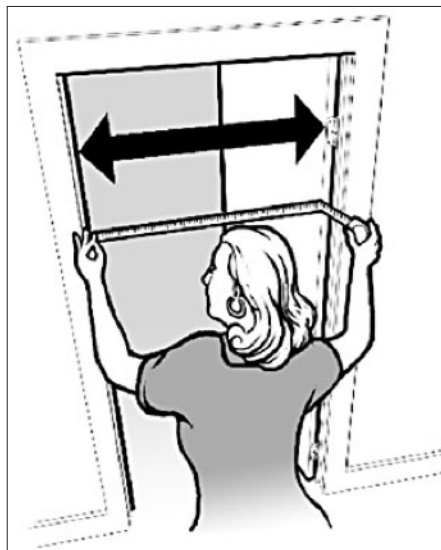
A tape measure is used to measure the length, width, height, and depth of various elements including parking spaces and access aisles, routes, thresholds, doorways, and protruding objects.



*Using a tape measure to measure the width of a parking space*

### Measuring Door Openings

Special care is needed when measuring the clear opening of a doorway. To measure the clear opening of a standard hinged door, open the door to 90 degrees. Measure the clear door opening from the edge of the doorstop to the edge of the door (not to the door jamb). This measures the clear width of the door opening through which people pass, which is less than the width of the door itself. Door handles and push bars should not be included in the measurements of door opening widths.



*Measuring the clear door opening*

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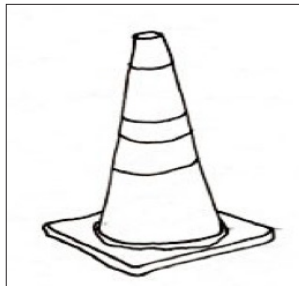
### Taking Photographs

It is always useful to first take a photo that will clearly identify the site, then the elements surveyed. A comprehensive set of photographs makes it easier to understand existing conditions after the survey is completed. It is a good idea to take several photos of the exterior and interior of the polling place. We recommend taking photographs of measurements and noncompliant elements such as steps. It is likely that others may review information about the facility you are surveying.

### Temporary Remedies

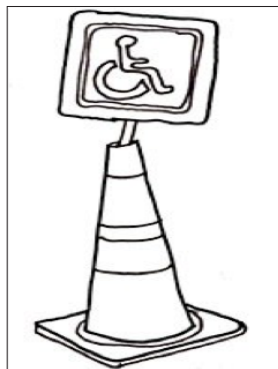
Many accessibility barriers at polling places can be removed with temporary remedies. Although not designed to be permanent solutions, the following tools can be used to provide remedies on Election Day to improve accessibility. These tools can often be found in local hardware and home improvement stores or online at minimal cost.

#### Traffic Cones



*Traffic cones can be used to mark parking spaces, access aisles and passenger loading zones, to hold parking signs, and to warn of protruding objects.*

#### Parking Signs



*Accessible parking signs should be used to designate accessible parking locations.*

#### Van Parking Sign



*Van accessible parking signs should be used to designate van accessible parking locations.*

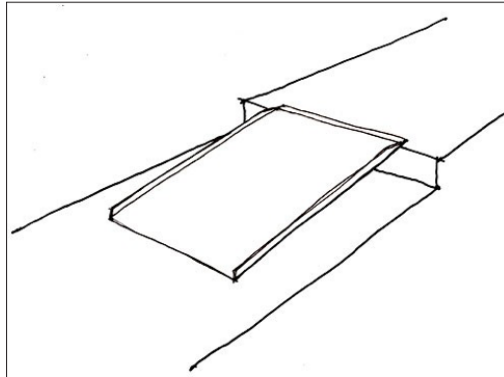
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### Directional Signs



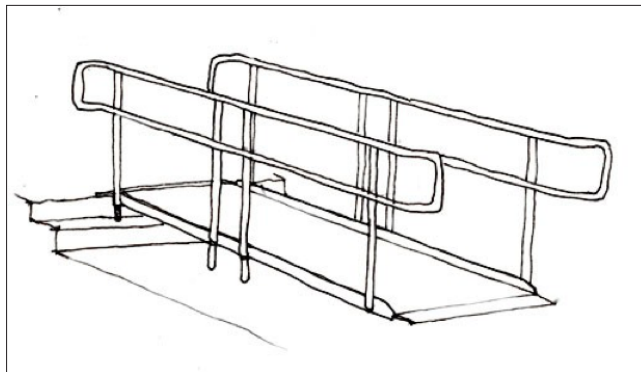
*Directional signage should be used to show direction to the accessible route, accessible entrance, and voting area.*

### Portable ramp - step 6 inches or less



*Portable ramps without handrails can only be used for heights six inches or less and can provide access at a curb or low step. Portable ramps also can be placed flat to cover holes or gaps in a sidewalk.*

### Portable ramp - greater than six inch step

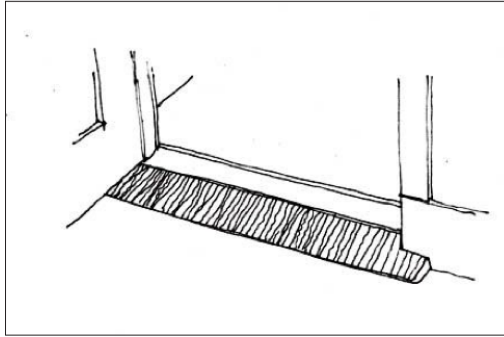


*Portable ramps with handrails must be used for heights greater than six inches to provide access over steps. For ramps greater than six inches high, temporary edge protection such as a pipe or piece of wood can be attached with ties or twine to the edges of the ramp.*

*Edge protection must run the entire length of the ramp.*

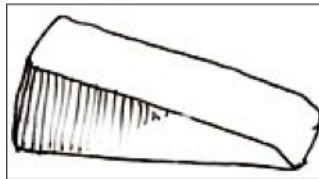
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### Wedges



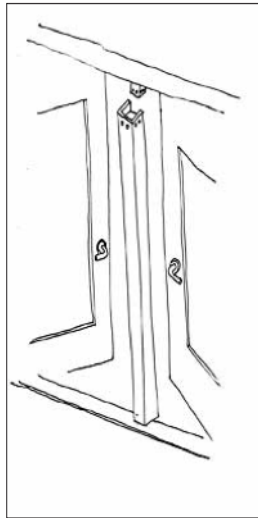
*Wedges can provide access at thresholds and slight changes in level.*

### Door stop



*Door stops can be used to prop open a door if the door handle is inaccessible, or if there is an inadequate maneuvering clearance for a person using a wheelchair or other mobility device to open the door.*

### Remove post (increase clear width at double leaf doors)



*Remove center post between doors if the post is bolted to the door frame to provide a 32 inch clear opening or to allow double doors to be propped open.*



**STATE OF IDAHO**  
OFFICE OF THE SECRETARY OF STATE  
LAWRENCE DENNEY

**SECRETARY OF STATE DIRECTIVE**  
(Directive 2003-1)

The Secretary of State, pursuant to the authority of Sections 34-202 and 34-1203, *Idaho Code*, does hereby issue the following directive:

All votes shall be determined in a fair and consistent manner for each voting system in the State. In all cases, inspection boards must determine whether votes should be counted or rejected. The attached standards should be followed when determining what is to be counted as a vote.

LAWRENCE DENNEY  
Secretary of State



# Ballot Inspection Process: What Is To Be Counted As A Vote?

## General

Section 34-1203, *Idaho Code*, sets the statutory standards for counting ballots i.e., “When a ballot is sufficiently plain to determine therefrom a part of the voter’s intention, it shall be the duty of the judges to count such ballots.” Although it is impossible to include all possible scenarios, these instructions are intended to assist the poll and election workers in determining in a fair and consistent manner what should be counted as a vote for each voting system used in the state. In all cases, inspection boards must determine whether ballots should be counted, rejected or duplicated. If the ballot has damage or defects that would cause problems in a vote tally system a duplicate ballot should be generated.

## Overvotes:

If a voter places a mark or writes-in the names of more candidates for an office than are to be elected or nominated, no vote shall be counted for any candidate for that office. The ballot is defective with respect only to that office, and the rest of the ballot should be counted.

## Undervotes:

If a voter does not mark a candidate or issue, the votes for the other candidates or issues on the same ballot that are validly marked shall be counted. Failure to vote for a particular candidate or issue will be deemed a conscious decision to not vote for either that office or issue.

## Paper Ballots

The following principles apply when examining a paper ballot:

- **From face of ballot only.** Intent shall be ascertained only from the face of the ballot.
- **Votes for too many candidates.** If a voter places a mark or writes-in the names of more candidates for an office than are to be elected or nominated, the ballot is defective with respect only to that office. No vote shall be counted for any candidate for that office.
- **Name written-in.** If a voter has written-in the name of a declared write-in candidate or a candidate filing a declaration of candidacy, a vote shall be counted for that individual whether or not the voter makes a mark (X) in the square opposite the blank. Please note, a partisan tally of write-ins must be kept in the primary for an individual whereas the write-ins for an individual in the general election are cumulative. Remember only the write-ins for an individual who has filed a Declaration of Intent are to be checked for validity. The County Clerk will provide a list of such individuals. In the event a write-in is cast for a candidate whose name appears on the ballot, the vote shall be counted provided it does not create an overvote. Write-ins in the wrong office shall not be counted.
- **Mark out of place.** If a mark (X) is made out of its proper place, but so near a name or space as to indicate the voter’s intent, the vote shall be counted.
- **Different marks.** Any mark evidencing the intent of the voter shall be counted.
- **Attempted erasures or cross outs.** If the names of two candidates have been marked, and an attempt has been made to erase or obliterate one of the marks, a vote shall be counted for the remaining marked candidate. If an attempt has been made to obliterate a write-in name, a vote shall be counted for the remaining name or marked candidate.
- **Misspellings and abbreviations.** Misspellings or abbreviations of the names of write-in candidates shall be disregarded if the individual for whom the vote was intended can be ascertained from the ballot.

## Guidelines for determining voter’s intent for paper ballot write-ins.

Pursuant to Section 34-702A and 34-1407, *Idaho Code*, no write-in vote for any office shall be counted unless a declaration of intent or declaration of candidacy has been filed indicating that the person desires the office. Pursuant to Section 34-1203, *Idaho Code*, when a ballot is sufficiently plain to determine therefrom a part of the voter’s intention, it shall be the duty of the judges to count the vote. The minimum threshold for determination of a write-in vote is the surname within the appropriate space.

The following guidelines are to assist in determining voter’s intent for a declared write-in candidate or candidate filing a declaration of candidacy.

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- I. Voter has written-in the complete name of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the box to the right.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- II. Voter has written-in an abbreviation or common nickname of the candidate's first name and the surname of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the box to the right.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- III. Voter has written-in the complete name of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and did not make a mark in the box to the right.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- IV. Voter has placed a pre-printed sticker with the candidate's name under the office the candidate has filed a declaration of intent or declaration of candidacy for and did/or did not make a mark in the box to the right.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- V. Voter has written-in the complete name of the write-in candidate or candidate filing a declaration of candidacy under a different office the candidate has filed a declaration of intent or declaration of candidacy for and marked the box to the right.

### Examples:

- a. Candidate filed for county commissioner for the first district and wrote the name under county commissioner for the second district.

Candidate filed for State Representative, position A and the name was written-in under position B.

THIS VOTE **SHOULD NOT** BE COUNTED AS A VALID WRITE-IN VOTE.

- VI. Voter has written-in only the surname of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the box to the right.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- VII. Voter has written-in only the first name of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the box to the right.

THIS VOTE **SHOULD NOT** BE COUNTED AS A VALID WRITE-IN VOTE.

### Optical and Digital Scan Ballots

Optical and digital scan voting systems require that the elector place a mark in a pre-defined area on the ballot in order to cast a vote. The vote shall be considered valid when the vote tabulator recognizes a mark within the predefined area unless the ballot is rejected as being blank.

If the tabulation device rejects the ballot as being blank, and it appears that the reason is because the ballot was marked consistently, but in a manner that it could not be read by the device, the ballot is to be duplicated in a machine readable manner from the marks on the original ballot.

If the tabulation device rejects the ballot because of an "indeterminate read error", the ballot is to be examined by the duplication board and, if the board can determine the intent of the voter, duplicated in a machine readable manner from the marks on the ballot. If the duplication board cannot determine the intent of the voter, or if the members of the board disagree

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on the intent of the voter, the ballot is to be duplicated with the race or races in question left blank so that no vote will be recorded for the race or races in question.

An elector shall not place on the ballot a sticker bearing the name of a person, or use any other method or device, except writing, to vote for a person whose name is not printed on the ballot.

### **Guidelines for determining voter's intent for optical and digital scan ballot write-ins.**

Pursuant to Section 34-702A, *Idaho Code*, no write-in vote for any office shall be counted unless a declaration of intent or declaration of candidacy has been filed indicating that the person desires the office. Pursuant to Section 34-1203, *Idaho Code*, when a ballot is sufficiently plain to determine therefrom a part of the voter's intention, it shall be the duty of the judges to count such part. The minimum threshold for determination of a write-in vote is the surname within the appropriate space.

The following guidelines are to assist in determining voter's intent for a declared write-in candidate or a candidate filing a declaration of candidacy.

- I. Voter has written-in the complete name of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the predefined area.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- II. Voter has written-in an abbreviation or common nickname of the candidate's first name and the surname of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the predefined area.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- III. Voter has written-in the complete name of the write-in candidate or candidate filing a declaration of candidacy under a different office the candidate has filed a declaration of intent or declaration of candidacy for and marked the predefined area.

#### **Examples:**

- a. Candidate filed for county commissioner for the first district and wrote the name under county commissioner for the second district.
- b. Candidate filed for State Representative, position A and the name was written-in under position B.

THIS VOTE **SHOULD NOT** BE COUNTED AS A VALID WRITE-IN VOTE.

- IV. Voter has written-in only the surname name of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the predefined area.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- V. Voter has written-in only the first name of the write-in candidate or candidate filing a declaration of candidacy under the office the candidate has filed a declaration of intent or declaration of candidacy for and marked the predefined area.

THIS VOTE **SHOULD NOT** BE COUNTED AS A VALID WRITE-IN VOTE.

### **Direct Recording Electronic (DRE) Ballot**

A vote on a touch-screen direct recording electronic voting system or electron voting system consists of a voter's selection of a candidate or answer to a ballot question appearing on the voting surface of the device, followed by the voter activating the cast vote indicator.

### **Guidelines for determining voter's intent for DRE ballot write-ins.**

Pursuant to Section 34-702A, *Idaho Code*, no write-in vote for any office shall be counted unless a declaration of intent has

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been filed indicating that the person desires the office. Pursuant to Section 34-1203, *Idaho Code*, when it is sufficiently plain to determine the voter's intention, it shall be the duty of the judges to count the vote. The minimum threshold for determination of a write-in vote is the surname within the appropriate space.

The following guidelines are to assist in determining voter's intent for a declared write-in candidate.

- I. Voter has written-in the complete name of the write-in candidate or candidate filing a declaration of candidacy and the candidate has filed a declaration of intent or declaration of candidacy.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- II. Voter has written-in an abbreviation or common nickname of the candidate's first name and the surname of the write-in candidate or candidate filing a declaration of candidacy and the candidate has filed a declaration of intent or declaration of candidacy.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- III. Voter has written-in the complete name of the write-in candidate or candidate filing a declaration of candidacy under a different office for which the candidate has filed a declaration of intent or declaration of candidacy.

**Examples:**

- a. Candidate filed for county commissioner for the first district and wrote the name under county commissioner for the second district.
- b. Candidate filed for State Representative, position A and the name was written-in under position B.

THIS VOTE **SHOULD NOT** BE COUNTED AS A VALID WRITE-IN VOTE.

- IV. Voter has written-in only the surname of the write-in candidate or candidate filing a declaration of candidacy under the office for which the candidate has filed a declaration of intent or declaration of candidacy.

THIS VOTE **SHOULD** BE COUNTED AS A VALID WRITE-IN VOTE.

- V. Voter has written-in only the first name of the write-in candidate or candidate filing a declaration of candidacy under the office for which the candidate has filed a declaration of intent or declaration of candidacy.

THIS VOTE **SHOULD NOT** BE COUNTED AS A VALID WRITE-IN VOTE.

## Miscellaneous





# Recalling Elected Officials

## INTRODUCTION

Article VI, Section 6 of the Idaho Constitution guarantees the right of the people to recall anyone holding elective office in the state. It states, "Recall of Officers Authorized. – Every public officer in the State of Idaho, excepting the judicial officers, is subject to recall by the legal voters of the state or of the electoral district from which he is elected. The legislature shall pass the necessary laws to carry this provision into effect."

## WHO CAN BE RECALLED (Section [34-1701](#), *Idaho Code*)

The following public officers, whether holding their elective office by election or appointment are subject to recall:

- (a) State Officials (Governor, Lieutenant Governor, Secretary of State, State Controller, State Treasurer, Attorney General, and Superintendent of Public Instruction)
- (b) State Legislators
- (c) County Officials (County commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court and coroner)
- (d) City Officials (Mayor and city council members)
- (e) Special district elected officers for whom recall procedure is not otherwise provided by law.

## GETTING STARTED

You will find it helpful to familiarize yourself with the sections of the law that govern the recall of elected officials. The recall statutes are found in chapter 17, title 34 of the *Idaho Code*.

## DRAFTING THE PETITION (Section [34-1703](#), [34-1704](#) and [34-1705](#) *Idaho Code*)

Drafting a recall petition is not difficult and a format to follow is included in this pamphlet. The petition must include:

- The name of the person being recalled (A separate petition is required for each official being re- called).
- The office for which the person is being recalled.
- Reasons for the recall in not more than 200 words.
- Adequate space for qualified electors to:
  - » Print name
  - » Provide residence address
  - » Date
- Circulator affidavit (Can be found in section [34-1807](#), *Idaho Code*).

Before or at the time of beginning to circulate any petition for the prospective recall of any officer, the person or persons, organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the appropriate filing officer a copy of such petition duly signed by at least twenty (20) electors eligible to sign such petition. These twenty (20) signatures shall not be counted toward the required number of certified signatures. However, these 20 individuals may sign the petition after approval for circulating.

The appropriate filing officer with whom petitions are to be filed:

Office Holder	Filing Officer
Statewide	Secretary of State
Legislative	Secretary of State
County	County Clerk
City	City Clerk
Special Districts	County Clerk where the district is located (If in more than one county, each County Clerk performs the functions within that county.)

## RECALLING ELECTED OFFICIALS

### APPROVAL OF THE PETITION (Section 34-1704, *Idaho Code*)

All recall petitions need to be approved as to form by the appropriate filing office with the first 20 signatures. The filing officer shall inform whoever is circulating the recall petitions, in writing, that they have been approved.

### TIME DEADLINE FOR THE PETITIONS (Section 34-1704 and 34-1705, *Idaho Code*)

The circulators shall then have seventy-five (75) days from the date of approval to collect the required number of signatures. Petitions must be signed by qualified electors of the jurisdiction in which the recall is being conducted and must be signed in the presence of the signature gatherer. Petitions cannot be left on a counter, unattended, for people to read and sign. All signatures must be witnessed by the signature gatherer.

### PETITION FOR CIRCULATION (Section 34-1704, *Idaho Code*)

- (A) All petitions and signature sheets for recall shall be printed on a good quality bond or ledger paper of standardized size.

To every sheet of petitioners' signatures shall be attached a full and correct copy of the recall petition.

- (B) If the petition seeks recall of: (Section 34-1702, *Idaho Code*)

#### **Statewide Officeholder**

The petition must be signed by registered electors equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

#### **State Legislator**

The petition must be signed by registered electors of the legislative district equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

#### **County Officeholder**

The petition must be signed by registered electors of the county equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the county at which the officer was elected.

#### **City Officeholder**

The petition must be signed by registered electors of the city equal in number to twenty percent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers.

#### **Special District Officeholder**

The petition must be signed by registered electors of the district equal in number to fifty percent (50%) of the number of electors who voted at the last general election held in the district at which the officer was elected. School Board Trustees recall petitions must be signed by members of the trustee zone the board member represents. If no district election has been held in the past six (6) years, the petition must be signed by twenty percent (20%) of the number of electors registered to vote in the district or school zone at the time the petition is filed. (Section 34-1703, *Idaho Code*)

- (C) An explanation setting forth the reasons for the recall is required on the petition cover; the explanation shall not exceed 200 words. (Section 34-1705, *Idaho Code*)
- (D) Each signature sheet must be verified by the person who circulated that particular petition, and that person's signature, in turn, is verified by a notary public.

A sample form of the petition is attached to this procedural outline.

## RECALLING ELECTED OFFICIALS

### EXAMINATION AND CERTIFICATION OF PETITION (Section 34-1706 and 34-1707, *Idaho Code*)

Within the seventy-five (75) day period, the petitions shall be filed on the same day with the proper filing officer.

If the filing officer is the Secretary of State or City Clerk, they shall promptly transmit the petitions to the County Clerk for examination. Included with the petitions will be a letter notifying the County Clerk to examine the signature sheets within fifteen (15) business days from the date of receipt of the petitions. The County Clerk shall carefully examine said petitions and shall attach to each signature sheet a certification of the number of signatures on the petition being qualified.

In examining petitions, the following shall apply:

- Voter signatures will be rejected if they list an address outside the area indicated on the petition or they have been struck through or crossed out.
- Voter names will be accepted if:
  - » The name is exactly as it appears on the voting rolls, however there may be –
    - An initial in the place of the first or middle name;
    - A common nickname;
    - The presence or absence of terms such as Sr. or Jr. following the name; and
  - » The person was registered to vote at the address on the petition page on the date the petition was signed.
- Voter addresses will be accepted if they meet one or more of a combination of the following:
  - » The address is exact except there is –
    - The presence or absence of a letter or number identifying an apartment;
    - The presence or absence of a letter or group of letters indicating the directional location of a street, for example “E” for east;
  - » The voter resides in the same residence as indicated on the voting rolls and the local County Clerk can determine that only the address designation has been changed by municipal or postal authorities;
  - » The address as listed on the petition was the voter’s registered address on the date the petition was signed.
- Voter’s signature will be accepted as valid if it generally appears to be in a form similar to that found on the voter rolls.

The County Clerk will then attach a certificate, pursuant to section 34-1807, *Idaho Code*, certifying the number of valid signatures and return the petitions back to the appropriate filing officer. The filing officer will then determine whether or not there are a sufficient number of signatures to call a special election.

In the event that there are not enough signatures on the recall petitions, the officer shall continue in office and no new recall petition can be circulated for a period of 90 days against the same officer.

### SPECIAL ELECTION (Section 34-1707, *Idaho Code*)

If the filing officer finds the petition to contain the required number of signatures, he shall notify the petitioner and the officer subject to recall by certified mail that the petition is in proper form. Then:

- (A) The officer being recalled is given five (5) business days to resign his office.
  - a. If the officer being recalled resigns, his resignation is accepted and the resignation shall take effect on the day it is offered. The vacancy shall be filled as provided by law.
  - b. If the officer subject to recall chooses not to resign within the five (5) business day period, the Secretary of State shall call a special election.

## RECALLING ELECTED OFFICIALS

(B) The special election must be held on the next available date prescribed in section 34-106(9), *Idaho Code*.

### **BALLOT FORM (Section 34-1708, *Idaho Code*)**

The special election ballot shall be titled "RECALL BALLOT", and will include the reasons demanding the recall used by the petitioners, and also a rebuttal issued by the officer subject to recall. Both statements must not exceed more than 200 words.

### **CONDUCT OF ELECTION (Section 34-1710, *Idaho Code*)**

Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects as general elections, except as otherwise provided. Nothing precludes the holding of a recall election with another election.

### **VOTES REQUIRED (Section 34-1712, *Idaho Code*)**

To recall any officer, a majority of the votes cast at the special recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall, must equal or exceed the votes cast at the last general election for that officer. If the officer was appointed or was not required to stand for election, then a majority of the votes cast in the recall election shall be the number necessary for recall.

### **OUTCOME OF THE RECALL ELECTION (Section 34-1712 and 34-1713, *Idaho Code*)**

If recalled, the officer shall be recalled at the time the results are proclaimed following the canvass. A vacancy in the office will then exist. Such vacancy shall then be filled in the manner provided by law for filling a vacancy arising from any other cause.

In the event a recall election fails, the officer shall continue in office and no further recall petition shall be filed against the same officer during the remainder of his current term of office unless the persons wishing to recall him first pay into the public treasury the whole amount of the cost of the preceding recount. The specific reason for the first recall cannot be the basis for a second recall during that current term of office.

# Instruction Sheet

Insert the following information on the Recall Petition when a County Elected Official is subject to recall.

- (1) Name of County Clerk
- (2) Name of County
- (3) Name of County
- (4) Insert name of officer subject to recall
- (5) Insert office held by officer subject to recall
- (6) Name of County
- (7) Name of County
- (8) Insert reasons for recall in the space provided (“... setting out the reasons for recall in not more than 200 words ...”);)
- (9) Name of County



# Recall Petition

To the Honorable (1) \_\_\_\_\_, County Clerk for the County  
of (2) \_\_\_\_\_:

We, the undersigned citizens and registered electors of the County of (3) \_\_\_\_\_,  
respectfully demand that (4) \_\_\_\_\_, holding the office  
of (5) \_\_\_\_\_, of the County of (6) \_\_\_\_\_, be recalled by  
the registered electors of the County of (7) \_\_\_\_\_ for the following reasons, to-wit: (8);

that a special election therefore be called; that we, each for himself say: I am a registered elector of the County  
of (9) \_\_\_\_\_, my residence, post office address, and the date I signed this petition are  
correctly written after my name.

*This is not the actual size of the form. Please note sec. 34-1704 I.C.*



# Recall Petition

Signature	Printed Name	Residence Street and Number	City	Date
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				

State of Idaho  
County of \_\_\_\_\_ } s.s.

I, \_\_\_\_\_, swear, under penalty of perjury, that I am a resident of the state of Idaho and at least eighteen (18) years of age; and that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

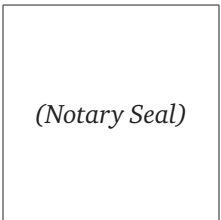
Signature \_\_\_\_\_

Post office address \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public \_\_\_\_\_

Residing at \_\_\_\_\_



*This is not the actual size of the form. Please note sec. 34-1704 I.C.*



# Selected Federal Statutes

## RETENTION OF VOTING DOCUMENTATION (52 U.S.C. 20701)

### Record Retention

This statute applies in all jurisdictions and all elections in which a federal candidate is on a ballot. It requires election officials to preserve for 22 months “all records and papers which came into (their) possession relating to an application, registration, payment of a poll tax, or other act requisite to voting.”

(NOTE: The Department of Justice considers this law to cover all voter registration records, all poll lists and similar documents reflecting the identity of voters casting ballots at the polls, all applications for absentee ballots, all envelopes in which absentee ballots are returned for tabulation, all documents containing oaths of voters, all documents relating to challenges to voters or absentee ballots, all tally sheets and canvass reports, all records reflecting the appointment of persons entitled to act as poll officials or poll watchers, and all computer programs used to tabulate votes electronically. In addition, it is the Department of Justice’s view that the phrase “other act requisite to voting” requires the retention of the ballots themselves, at least in those jurisdictions where a voter’s electoral preference is manifested by marking a piece of paper or by punching holes in a computer card.)

## CONSPIRING AGAINST THE RIGHTS OF CITIZENS AND DEPRIVATION OF RIGHTS UNDER COLOR OF LAW (18 U.S.C. 241 and 242)

This statute applies in all jurisdictions and in all elections should a public official (poll worker, deputy registrar, election official, etc.) be involved in the criminal act. If a public official is not involved, it applies only to vote fraud directly or indirectly affecting federal candidates on the ballot. Prohibited acts include, among others:

### Prohibited Acts

- intentionally preventing a qualified voter from casting a ballot
- ballot box stuffing
- forging or altering ballots
- impersonating qualified voters
- illegally registering voters, and
- casting absentee ballots in their name.

## DENYING THE RIGHT OF INDIVIDUALS TO VOTE BECAUSE OF ERRORS OR OMISSIONS ON THEIR VOTER REGISTRATION APPLICATION (42 U.S.C. 1971(a)(2)(B))

This statute applies in all jurisdictions and to all elections. It specifically prohibits any person acting under color of law from denying “the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.”

## FALSE INFORMATION IN, AND PAYMENTS FOR, REGISTERING OR VOTING (42 U.S.C. 1973i(c))

### Vote Buying

This statute applies in all jurisdictions and prohibits giving materially false information (false name, home address, and/or period of residence in voting district) to an election official for the purpose of establishing one’s eligibility to register or to vote. Although the law applies only to elections in which a federal candidate is on the ballot, **any registration which would qualify the applicant to cast a ballot in a federal contest** would fall under this provision. This statute also prohibits “vote buying” in the broadest terms possible by forbidding any “payment” or “offer of payment” that is made to a would-be voter “for voting” or to induce unregistered individuals to get onto the electoral roles. A “payment” encompasses **anything** of material value including lottery chances.

## VOTING MORE THAN ONCE (42 U.S.C. 1973i(e))

This statute makes it unlawful to “vote more than once” in connection with any general, special, or primary election in which a federal candidate is on the ballot.

### Multiple Voting

(NOTE; According to the Department of Justice, the concept of “voting more than once” is not necessarily restricted

## SELECTED FEDERAL STATUTES

to situations where members of a criminal enterprise actually mark more than one ballot. It may also apply in situations involving the intimidation of voters, or where it can otherwise fairly be said that a defendant purposely sought to subvert the free exercise of the electoral will of other voters, and thereby multiply the value of his own franchise beyond the one vote accorded to him under our electoral system.)

### ISSUES THAT ARE NOT DIRECTLY A MATTER OF FEDERAL LAW

#### Citizenship

Except for the Constitutional Amendments regarding race, sex, and age, qualifications for registering and voting (even in “federal” elections) are matters of State law. Yet virtually all of the States have chosen to require United States citizenship as a prerequisite for voter registration. Some States, but not all of them, implement this prerequisite through voter registration forms that clearly alert prospective registrants of the citizenship requirement and require registrants to affirmatively assert their citizenship. In such States, noncitizens who illegally register and vote may be prosecuted federally under 18 U.S.C. 911 which prohibits the knowing and false assertion of United States citizenship by an alien. Thus, while requiring United States citizenship as a qualification for voting is a matter of State law, noncitizens who register and vote may be prosecuted under federal law provided that they asserted United States citizenship on a signed voter registration document which specifies that requirement.

#### Dual Citizenship - Voting in Foreign Elections

It is also worth noting that, according to the Immigration and Naturalization Service, “Dual citizenship does not impose any impediment upon the enjoyment of full rights and responsibilities of U.S. citizenship under the laws of the United States.” Sections 1481(a) and 1483 of 8 U.S.C. provide that certain expatriative acts will result in a person’s loss of nationality if, in accordance with Supreme Court rulings, such acts coincide with a person’s “requisite intent to relinquish citizenship.” However, the INS has indicated that merely voting in a foreign election does not, in and of itself, threaten one’s United States citizenship. An individual’s claim of dual citizenship or claim to have voted in a foreign election do not, therefore, jeopardize their right to register and vote in U.S. elections.

#### The Voting Rights of Convicted Felons and Other Institutionalized

Just as in the case of citizenship, the voting rights of convicted felons and other institutionalized persons are matters of State law. There is no federal law that prohibits such persons from registering or voting. While nearly all States disenfranchise persons who have been declared non compos mentis, at least four States permit convicted felons to vote while incarcerated. The right of States to disenfranchise convicted felons was upheld by the U.S. Supreme Court in *Richardson v. Ramirez*, 418 U.S. 24, 94 S.Ct. 2655, 41 L.Ed.2d 551 (1974).

#### Time Off Work for

There is no federal law requiring employers to grant employees time off from work for the purposes of registering or voting. There is such a federal executive policy, but it pertains only to certain federal employees.

#### Flying the Flag at Polling Places

Federal law encourages but does not require that the flag be flown at polling places. Title 36 U.S.C. 174(f) reads in its entirety:

*“The flag should be displayed in or near every polling place on election days.”*

Note the use of “should” rather than “shall”.