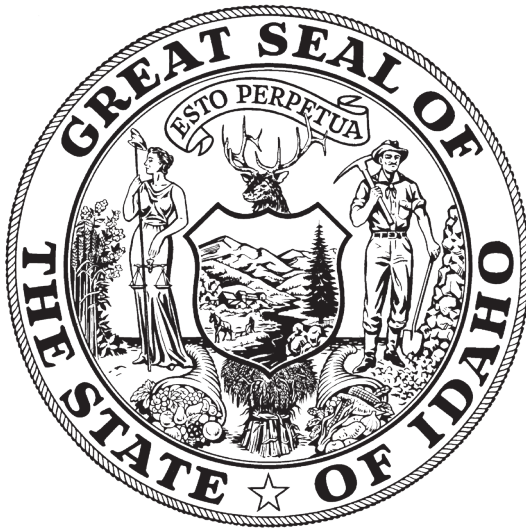


# ELECTION LAWS of the STATE OF IDAHO 2022



A Compilation of the Primary and General Election Laws With  
Amendments Through the 2022 Legislative Session

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

**IDAHO**  
Secretary of State's Office



# Contents

<b>2023 Idaho Election Calendar</b> .....	1
<b>Idaho Counties</b> .....	13
<b>Congressional Districts (2022)</b> .....	14
<b>Legislative Districts (2022)</b> .....	15
<b>Judicial Districts (2022)</b> .....	16
<b>Title 34: Elections</b> .....	19
Chapter 1: Definitions .....	19
Chapter 2: Duties of Officers .....	24
Chapter 3: Election Precincts and Judges .....	31
Chapter 4: Voters—Privileges—Qualifications and Registration .....	35
Chapter 5: Political Parties—Organization .....	46
Chapter 6: Time of Elections—Officers Elected .....	49
Chapter 7: Nominations—Conventions—Primary Elections .....	61
Chapter 8: Registration of Electors [REPEALED] .....	70
Chapter 9: Ballots .....	70
Chapter 10: Absentee Voting .....	79
Chapter 11: Conduct of Elections .....	87
Chapter 12: Canvas of Votes .....	90
Chapter 13: State Board of Canvassers [REPEALED] .....	98
Chapter 14: Uniform District Election Law .....	98
Chapter 15: Presidential Electors .....	103
Chapter 16: Special Elections [REPEALED] .....	105
Chapter 17: Recall Elections .....	105
Chapter 18: Initiative and Referendum Elections .....	114
Chapter 19: Number of Congressional Districts .....	130
Chapter 20: Election Contests Other Than Legislative and State Executive Offices ..	130
Chapter 21: Election Contests Act .....	138
Chapter 22: Constitutional Convention Act .....	149
Chapter 23: Recount of Ballots .....	154
Chapter 24: Voting by Machine or Vote Tally System .....	158
Chapter 25: Election Campaign Fund [REPEALED] .....	169
<b>Title 1: Courts and Court Officials (excerpt)</b> .....	173
Chapter 22: Magistrate Division of the District Court .....	173
Chapter 24: Court of Appeals .....	177
<b>Title 18: Crimes and Punishments</b> .....	183
Chapter 3: Nature and Extent of Punishment in General .....	183
Chapter 23: Elections .....	185
Chapter 70: Trespass and Malicious Injury to Property .....	191
<b>Title 67: The Sunshine Law</b> .....	195
Chapter 66: Election Campaign Contributions and Expenditures—Lobbyists .....	195
<b>Title 74: Transparent And Ethical Government</b> .....	221
<b>Title 59: Public Officers In General</b> .....	227
Chapter 9 Resignations And Vacancies .....	227
<b>INDEX</b> .....	237



# 2023 Idaho Election Calendar

This edition of the 2023 Idaho Election Calendar is subject to amendatory changes during the 2023 session of the Idaho Legislature. If changes occur, an updated version will be published.

- Jan. 6                    **Election Register Examination:** Deadline for county clerks to examine the election register, from the Nov. 3 election, and note challenges. [Sec. 34-432(1), *Idaho Code*]
- Jan. 20                   **Early Voting Security Plan:** Deadline for county clerks to submit their ballot security plan to the secretary of state. (\*NOTE: The Early Voting Security Plan must be submitted at least 30 days prior to implementing an early voting plan.) [§34-1013, *Idaho Code*]
- Jan. 23                   **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 14 election. [§34- 106(8), *Idaho Code*]
- Jan. 27                   **Recall Notification Deadline:** Political subdivisions must notify the county clerk if a recall election is ordered — for the March 14 election. [§34-106(9), *Idaho Code*]
- Jan. 27                   **Absentee Ballot Delivery Witnesses:** 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 March 14 election. [§34-1003(5), *Idaho Code*]
- Feb. 2                    **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 14 election. [§34-1413, *Idaho Code*]
- Feb. 2                    **Print Absentee Ballots:** Last day for county clerk to print absentee ballots for the March 14 election. [Secretary of State Directive 2015-01]
- Feb. 10                   **Designate Polling Places:** Deadline for county commissioners to designate polling places — for the March 14 election. [§34-302, *Idaho Code*]
- Feb. 13                   **Mail Absentee Ballots:** County clerks must begin mailing absentee ballots — to voters who have requested absentee ballots — March 14 election. [Secretary of State Directive 2015-1]
- Feb. 17                   **Preregistration Deadline:** Voter registrations must be received by the county clerk — for the March 14 election. (Deadline is postmarked by this date for mailed paper applications, 5 p.m. for paper applications handed in to the county clerk’s office, or until midnight for online applications.) [§34-408 and §34-410, *Idaho Code*]

## 2023 ELECTION CONSOLIDATION CALENDAR

- Feb. 21      **Mail Ballot Precincts:** County clerks may begin mailing ballots to voters located in designated mail ballot precincts — for the March 14 election. [§34-308, *Idaho Code*]
- Feb. 27      **Early Voting Must Begin:** For the March 14 election in those counties that choose to conduct early voting. [§34-1012, *Idaho Code*]
- Feb. 28      **Mail Ballot Precincts:** Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the March 14 election. [§34-308, *Idaho Code*]
- Mar. 2      **Poll Watchers:** Deadline for pro and con representatives to submit a written request (to the county clerk) for the purpose of authorizing watchers to observe at polling places — for the March 14 election. [§34-304, *Idaho Code*]
- Mar. 2      **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 14 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- Mar. 3      **Absentee Ballot Application Deadline:** Applications must be received by the county clerk by 5 p.m. — for the March 14 election. [§34-1002(7), *Idaho Code*]
- Mar. 8      **Voter Registration Cancellation:** Last day for county clerk to cancel registration of those electors who have not voted in any election in the last four years. [§34-435, *Idaho Code*]
- Mar. 9      **Publish Second Election Notification:** Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the March 14 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- Mar. 9      **Emergency Absentee Ballots:** County clerks may receive emergency absentee ballot applications from this date through 5 p.m. on March 13 from those who cannot be present for voting due to hospitalization if hospitalization began after 5 p.m. on March 3. [§34-1002A, *Idaho Code*]
- Mar. 10      **In-Person Absentee/Early Voting Ends:** At 5 p.m. — for the March 14 election. [§34-1002(7) and §34-1012, *Idaho Code*]

## 2023 ELECTION CONSOLIDATION CALENDAR

- Mar. 3 - 10      **Publish Notification of Candidate Filing Deadline:** County clerk (and city clerk, for municipal offices) must publish a notification of the candidate filing deadline for all taxing districts for which officers will be elected in the May 16 election — during this period. The notice should appear in the official newspaper of the political subdivision. [§34-1405 and §50-411, *Idaho Code*]
- Mar. 14      **Absentee Ballot Return Deadline:** Voted absentee ballots must be received — by the county clerk — by 8 p.m. for the March 14 election. [§34-1005, *Idaho Code*]
- Mar. 14      **Election Day:** Polling places — and the county clerk’s office — to be open 8 a.m.–8 p.m. Qualified individuals may register and vote at their designated polling place on election day. [§34-211, §34-408A, and §34-1101, *Idaho Code*]
- Mar. 15      Voter Registration Reopens [§34-408, *Idaho Code*]
- Mar. 17      **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 16 election. [§34-1404, *Idaho Code*]
- Mar. 24      **County Canvass:** Deadline for the board of county commissioners to meet and conduct the canvass — of the March 14 election. [§34-1410, *Idaho Code*]
- Mar. 24\*      **County Election Certification:** Deadline for county clerks to certify the results of the March 14 election to the clerk of the political subdivision(s). (\*This date may vary; to be done immediately after the canvass.) [§34-1410, *Idaho Code*]
- Mar. 24      **Nonpartisan Nominee Certification:** Deadline for the clerk of the political subdivision to certify nominees — to be placed on the ballot — for the May 16 election. [§34-1404, *Idaho Code*]
- Mar. 24      **Nonpartisan Write-In Candidates:** Deadline for write-in candidates to file a declaration of intent with the clerk of the political subdivision for the May 16 election. [§34-1407, *Idaho Code*]
- Mar. 27      **Ballot Question Submission Deadline:** 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 16 election [§34-106(8), *Idaho Code*]
- Mar. 31      **Candidate Withdrawal Deadline:** Last day nonpartisan candidates can withdraw from the May 16 election. [§34-1405A, *Idaho Code*]

## 2023 ELECTION CONSOLIDATION CALENDAR

- Mar. 31      **Recall Notification Deadline:** Political subdivisions must notify the county clerk if a recall election is ordered — for the May 16 election. [§34-106(9), *Idaho Code*]
- Mar. 31      **Absentee Ballot Delivery Witnesses:** 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 16 election. [§34-1003(5), *Idaho Code*]
- Apr. 3\*      **Early Voting Security Plan:** Deadline for county clerks to submit their ballot security plan to the secretary of state. (\*NOTE: The Early Voting Security Plan must be submitted at least 30 days prior to implementing an early voting plan. If a plan was submitted and approved earlier in the year, and has not changed, it need not be resubmitted.) [§34-1013, *Idaho Code*]
- Apr. 6      **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 May 16 election. [§34-1413, *Idaho Code*]
- Apr. 13\*      **Recount Applications:** Deadline — for supporters or opponents of a ballot measure — to apply to the county clerk for a recount of the March 14 election. (\*This date may vary; it must be done within 20 days of the canvass). [§34-2301, *Idaho Code*]
- Apr. 13\*      **Election Disputes:** Deadline for electors to contest the results of the March 14 election. (\*This date may vary; complaints must be filed in the proper court within 20 days of the county canvass.) [§34-2008, *Idaho Code*]
- Apr. 14      **Designate Polling Places:** Deadline for county commissioners to designate polling places — for the May 16 election. [§34-302, *Idaho Code*]
- Apr. 17      **Mail Absentee Ballots:** County clerks must begin mailing absentee ballots — to voters who have requested absentee ballots — for the May 16 election. [Secretary of State Directive 2015-1]
- Apr. 21      **Preregistration Deadline:** Voter registrations must be received by the county clerk — for the May 16 election. (Deadline is postmarked by this date for mailed paper applications, 5 p.m. for paper applications handed in to the county clerk's office, or until midnight for online applications.) [§34-408 and §34-410, *Idaho Code*]
- Apr. 24      **Mail Ballot Precincts:** County clerks may begin mailing ballots to voters located in designated mail ballot precincts — for the May 16 election. [§34-308, *Idaho Code*]



## 2023 ELECTION CONSOLIDATION CALENDAR

- May 1            **Early Voting Must Begin:** For the May 16 election in those counties that choose to conduct early voting. [§34-1012, *Idaho Code*]
- May 2            **Mail Ballot Precincts:** Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the May 16 election. [§34-308, *Idaho Code*]
- May 4            **Publish First Election Notification:** Deadline for county clerk to publish the first notice of election — in the county’s official newspaper(s) — for the May 16 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- May 4            **Poll Watchers:** Deadline for candidates and pro and con representatives to submit a written request (to the county clerk) for the purpose of authorizing watchers to observe at polling places — for the May 16 election. [§34-304, *Idaho Code*]
- May 5            **Absentee Ballot Application Deadline:** Applications must be received by the county clerk by 5 p.m. — for the May 16 election. [§34-1002(7), *Idaho Code*]
- May 11           **Publish Second Election Notification:** Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the May 16 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- May 11           **Emergency Absentee Ballots:** County clerks may receive emergency absentee ballot applications from this date through 5 p.m. on May 15 from those who cannot be present for voting due to hospitalization if hospitalization began after 5 p.m. on May 5. [§34-1002A, *Idaho Code*]
- May 12           **Election Register Examination:** Deadline for county clerks to examine the election register, from the March 14 election, and note challenges. [§34-432(1), *Idaho Code*]
- May 12           **In-Person Absentee/Early Voting Ends:** At 5 p.m. — for the May 16 election. [§34-1002(7) and §34-1012, *Idaho Code*]
- May 16           **Absentee Ballot Return Deadline:** Voted absentee ballots must be received — by the county clerk — by 8 p.m. for the May 16 election. [§34-1005, *Idaho Code*]

## 2023 ELECTION CONSOLIDATION CALENDAR

May 16	<b>Election Day:</b> Polling places — and the county clerk’s office — to be open 8 a.m.–8 p.m. Qualified individuals may register and vote at their designated polling place on election day. [ <u>§34-211</u> , <u>§34-408A</u> , and <u>§34-1101</u> , <i>Idaho Code</i> ]
May 17	Voter Registration Reopens. [ <u>§34-408</u> , <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 16 election. [ <u>§34-1410</u> , <i>Idaho Code</i> ]
May 26*	<b>Election Certification:</b> Deadline for county clerks to certify the results — of the May 16 election — to the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the county canvass.) [ <u>§34-1410</u> , <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, the deadline for which is May 26.) [ <u>§34-1410</u> , <i>Idaho Code</i> ]
June 15*	<b>Recount Applications:</b> Deadline — for candidates and supporters/opponents of a ballot measure, excluding county ballot measures — to apply to the county clerk for a recount of the May 16 election. Applications for a recount of county ballot measures must be filed with the Attorney General. (*This date may vary; it must be done within 20 days of the county canvass). [ <u>§34-2301</u> , <i>Idaho Code</i> ]
June 15*	<b>Election Disputes:</b> Deadline for electors to contest the results of the May 16 election. (*This date may vary; complaints must be filed in the proper court within 20 days of the county canvass. [ <u>§34-2008</u> , <i>Idaho Code</i> ]
July 10	<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. 29 election. [ <u>§34- 106(8)</u> , <i>Idaho Code</i> ]
July 14	<b>Election Register Examination:</b> Deadline for county clerks to examine the election register, from the May 16 election, and note challenges. [Sec. <u>34-432(1)</u> , <i>Idaho Code</i> ]
July 14	<b>Recall Notification Deadline:</b> Political subdivisions must notify the county clerk if a recall election is ordered — for the Aug. 29 election. [ <u>§34-106(9)</u> , <i>Idaho Code</i> ]

## 2023 ELECTION CONSOLIDATION CALENDAR

- July 14      **Absentee Ballot Delivery Witnesses:** 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 August 29 election. [§34-1003(5), Idaho Code]
- July 17\*      **Early Voting Security Plan:** Deadline for county clerks to submit their ballot security plan to the secretary of state. (\*NOTE: The Early Voting Security Plan must be submitted at least 30 days prior to implementing an early voting plan. If a plan was submitted and approved earlier in the year, and has not changed, it need not be resubmitted.) [§34-1013, Idaho Code]
- July 20      **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 Aug. 29 election. [§34-1413, Idaho Code]
- July 28      **Designate Polling Places:** Deadline for county commissioners to designate polling places — for the Aug. 29 election. [§34-302, Idaho Code]
- July 31      **Mail Absentee Ballots:** County clerks to begin mailing absentee ballots — to voters who have requested absentee ballots — for the Aug. 29 election. [Secretary of State Directive 2015-1]
- Aug. 4      **Preregistration Deadline:** Voter registrations must be received by the county clerk — for the Aug. 29 election. (Deadline is postmarked by this date for mailed paper applications, 5 p.m. for paper applications handed in to the county clerk's office, or until midnight for online applications.) [§34-408 and §34-410, Idaho Code]
- Aug. 7      **Mail Ballot Precincts:** County clerks may begin mailing ballots to voters located in designated mail ballot precincts — for the Aug. 29 election. [§34-308, Idaho Code]
- Aug. 14      **Early Voting Must Begin:** For the August 29 election in those counties that choose to conduct early voting. [§34-1012, Idaho Code]
- Aug. 15      **Mail Ballot Precincts:** Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the Aug. 29 election. [§34-308, Idaho Code]

## 2023 ELECTION CONSOLIDATION CALENDAR

- Aug. 17      **Poll Watchers:** Deadline for pro and con representatives to submit a written request (to the county clerk) for the purpose of authorizing watchers to observe at polling places — for the Aug. 29 election. [§34-304, *Idaho Code*]
- Aug. 17      **Publish First Election Notification:** Deadline for county clerk to publish the first notice of election — in the county’s official newspaper(s) — for the Aug. 29 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- Aug. 18      **Absentee Ballot Application Deadline:** Applications must be received by the county clerk by 5 p.m. — for the Aug. 29 election. [§34-1002(7), *Idaho Code*]
- Aug. 24      **Publish Second Election Notification:** Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the Aug. 29 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- Aug. 24      **Emergency Absentee Ballots:** County clerks may receive emergency absentee ballot applications from this time through 5 p.m. on August 30 from those who cannot be present for voting due to hospitalization if hospitalization began after 5 p.m. on August 18. [§34-1002A, *Idaho Code*]
- Aug. 25      **In-Person Absentee/Early Voting Ends:** At 5 p.m. — for the Aug. 29 election. [§34-1002(7) and §34-1012, *Idaho Code*]
- Aug. 27–Sep. 3      **Publish Notification of Candidate Filing Deadline:** County clerk (and city clerk, for municipal offices) must publish a notification of the candidate filing deadline for all taxing districts for which officers will be elected in the Nov. 7 election — during this period. The notice should appear in the official newspaper of the political subdivision. [§34-1405 and §50-411, *Idaho Code*]
- Aug. 28      **City Candidate Filing Opens:** Candidates for city elective offices may file nomination petitions with the city clerk beginning at 8 a.m. [§50-410, *Idaho Code*]
- Aug. 29      **Absentee Ballot Return Deadline:** Voted absentee ballots must be received — by the county clerk — by 8 p.m. for the Aug. 29 election. [§34-1005, *Idaho Code*]

## 2023 ELECTION CONSOLIDATION CALENDAR

- Aug. 29      **Election Day:** Polling places — and the county clerk’s office — to be open 8 a.m.–8 p.m. Qualified individuals may register and vote at their designated polling place on election day. [§34-211, §34-408A, and §34-1101, *Idaho Code*]
- Aug. 30      Voter Registration Reopens [§34-408, *Idaho Code*]
- Sep. 8        **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 Nov. 7 election. [§34-1404 and §50-410, *Idaho Code*]
- Sep. 8        **County Canvass:** Deadline for the board of county commissioners to meet and conduct the canvass — of the Aug. 29 election. [§34-1410, *Idaho Code*]
- Sep. 8\*       **County Election Certification:** Deadline for county clerks to certify the results — of the Aug. 29 election — to the clerk of the political subdivision(s). (\*This date may vary; to be done immediately after the canvass.) [§34-1410, *Idaho Code*]
- Sep. 15       **Nonpartisan Nominee Certification:** Deadline for the clerk of the political subdivision to certify nominees — to be placed on the ballot — for the Nov. 7 election. [§34-1404, *Idaho Code*]
- Sep. 15       **Nonpartisan Write-In Candidates:** Deadline for write-in candidates to file a declaration of intent with clerk of the political subdivision for the Nov. 7 election. [§34-1407, *Idaho Code*]
- Sep. 18       **Ballot Question Submission Deadline:** 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. 7 election. [§34-106, *Idaho Code*]
- Sep. 22       **Nonpartisan Candidate Withdrawal Deadline:** Last day nonpartisan candidates can withdraw from the Nov. 7 election. [§34-1405A, *Idaho Code*]
- Sep. 22       **Recall Notification Deadline:** Political subdivisions must notify the county clerk if a recall election is ordered — for the Nov. 7 election. [§34-106(9), *Idaho Code*]
- Sep. 22       **Absentee Ballot Delivery Witnesses:** 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 Nov. 7 election. [§34-1003(5), *Idaho Code*]

## 2023 ELECTION CONSOLIDATION CALENDAR

- Sep. 25\* **Early Voting Security Plan:** Deadline for county clerks to submit their ballot security plan to the secretary of state. (\*NOTE: The Early Voting Security Plan must be submitted at least 30 days prior to implementing and early voting plan. If a plan was submitted and approved earlier in the year, and has not changed, it need not be resubmitted.) [§34-1013, Idaho Code]
- Sep. 28 **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 Nov. 7 election. [§34- 1413, Idaho Code]
- Sep. 28\* **Recount Applications:** Deadline — for supporters or opponents of a ballot measure — to apply to the county clerk for a recount of the Aug. 29 election. (\*This date may vary; it must be done within 20 days of the canvass). [§34-2301, Idaho Code]
- Sep. 28\* **Election Disputes:** Deadline for electors to contest the results — of the Aug. 29 election. (\*This date may vary; complaints must be filed in the proper court within 20 days of the canvass.) [§34-2008, Idaho Code]
- Oct. 6 **Designate Polling Places:** Deadline for county commissioners to designate polling places — for the Nov. 7 election. [§34-302, Idaho Code]
- Oct. 10 **Mail Absentee Ballots:** County clerks must mail absentee ballots — to voters who have requested absentee ballots — for the Nov. 7 election. [Secretary of State Directive 2015-1]
- Oct. 13 **Preregistration Deadline:** Voter registrations must be received by the county clerk — for the Nov. 7 election. (Deadline is postmarked by this date for mailed paper applications, 5 p.m. for paper applications handed in to the county clerk's office, or until midnight for online applications.) [§34-408 and §34-410, Idaho Code]
- Oct. 16 **Mail Ballot Precincts:** County clerks may begin mailing ballots to voters located in designated mail ballot precincts — for the Nov. 7 election. [§34-308, Idaho Code]
- Oct. 23 **Early Voting Must Begin:** For the Nov. 7 election in those counties that choose to conduct early voting. [§34-1012, Idaho Code]

## 2023 ELECTION CONSOLIDATION CALENDAR

- Oct. 24      **Mail Ballot Precincts:** Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the Nov. 7 election. [§34-308, *Idaho Code*]
- Oct. 26      **Poll Watchers:** Deadline for candidates or pro and con representatives to submit a written request (to the county clerk) for the purpose of authorizing watchers to observe at polling places — for the Nov. 7 election. [§34-304, *Idaho Code*]
- Oct. 26      **Publish First Election Notification:** Deadline for county clerk to publish the first notice of election — in the county's official newspaper(s) — for the Nov. 7 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- Oct. 27      **Absentee Ballot Application Deadline:** Applications must be received by the county clerk by 5 p.m. — for the Nov. 7 election. [§34-1002(7), *Idaho Code*]
- Oct. 27      **Election Register Examination:** Deadline for county clerks to examine the election register, from the Aug. 29 election, and note challenges. [§34-432(1), *Idaho Code*]
- Nov. 2      **Publish Second Election Notification:** Deadline for county clerk to publish the second notice of election along with a facsimile sample ballot — for the Nov. 7 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [§34-602 and §34-1406, *Idaho Code*]
- Nov. 2      **Emergency Absentee Ballots:** County clerks may receive emergency absentee ballot applications through 5 p.m. on November 6 from those who cannot be present for voting due to hospitalization if hospitalization began after 5 p.m. on October 27. [§34-1002A, *Idaho Code*]
- Nov. 3      **In-Person Absentee/Early Voting Ends:** At 5 p.m. — for the Nov. 7 election. [§34-1002(7) and §34-1012, *Idaho Code*]
- Nov. 7      **Absentee Ballot Return Deadline:** Voted absentee ballots must be received — by the county clerk — by 8 p.m. for the Nov. 7 election. [§34-1005, *Idaho Code*]

## 2023 ELECTION CONSOLIDATION CALENDAR

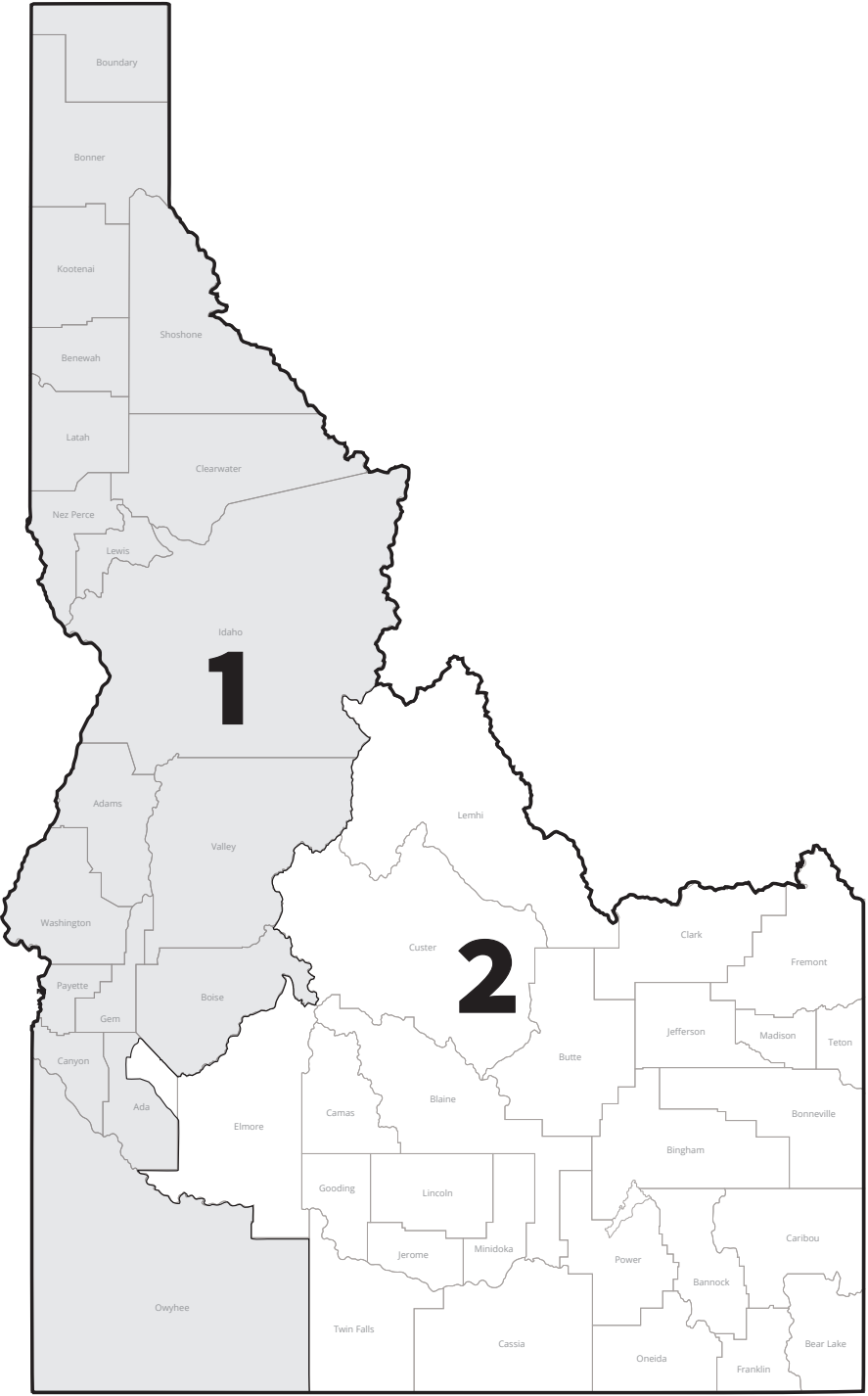
Nov. 7	<b>Election Day:</b> Polling places — and the county clerk’s office — to be open 8 a.m.–8 p.m. Qualified individuals may register and vote at their designated polling place on election day. [ <a href="#">§34-211</a> , <a href="#">§34-408A</a> , and <a href="#">§34-1101</a> , <i>Idaho Code</i> ]
Nov. 8	Voter Registration Reopens [ <a href="#">§34-408</a> , <i>Idaho Code</i> ]
Nov. 17	<b>County Canvass:</b> Deadline for the board of county commissioners to meet and conduct the canvass — of the Nov. 7 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. 17*	<b>County Election Certification:</b> Deadline for county clerks to certify the results of the Nov. 7 election to the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the county canvass.) [ <a href="#">§34-1410</a> , <i>Idaho Code</i> ]
Nov. 17*	<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 county canvass.) [ <a href="#">§34-1410</a> , <i>Idaho Code</i> ]
Dec. 7*	<b>Recount Applications:</b> Deadline — for candidates and supporters/opponents of a ballot measure, excluding city candidates and city or county ballot measures — to apply to the county clerk for a recount of the Nov. 7 election. Applications for a recount of city elections or county ballot measures must be filed with the Attorney General. (*This date may vary; it must be done within 20 days of the county canvass). [ <a href="#">§34-2301</a> , <i>Idaho Code</i> ]
Dec. 7*	<b>Election Disputes:</b> Deadline for electors to contest the results of the Nov. 7 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> ]
Dec. 7	<b>City Runoff Elections:</b> If authorized by city ordinance, last day for a runoff city election between the two candidates receiving the highest number of votes cast if no candidate received a majority of the votes cast. [ <a href="#">§50-612</a> and <a href="#">§50-707B</a> , <i>Idaho Code</i> ]
Dec. 31	<b>2024 Election Calendar Publication Deadline:</b> County clerks to publish the 2024 election calendar. [ <a href="#">§34-1405(2)</a> , <i>Idaho Code</i> ]
Jan. 5, 2024	<b>Election Register Examination:</b> Deadline for county clerks to examine the election register, from the Nov. 7 election, and note challenges. [ <a href="#">Sec. 34-432(1)</a> , <i>Idaho Code</i> ]



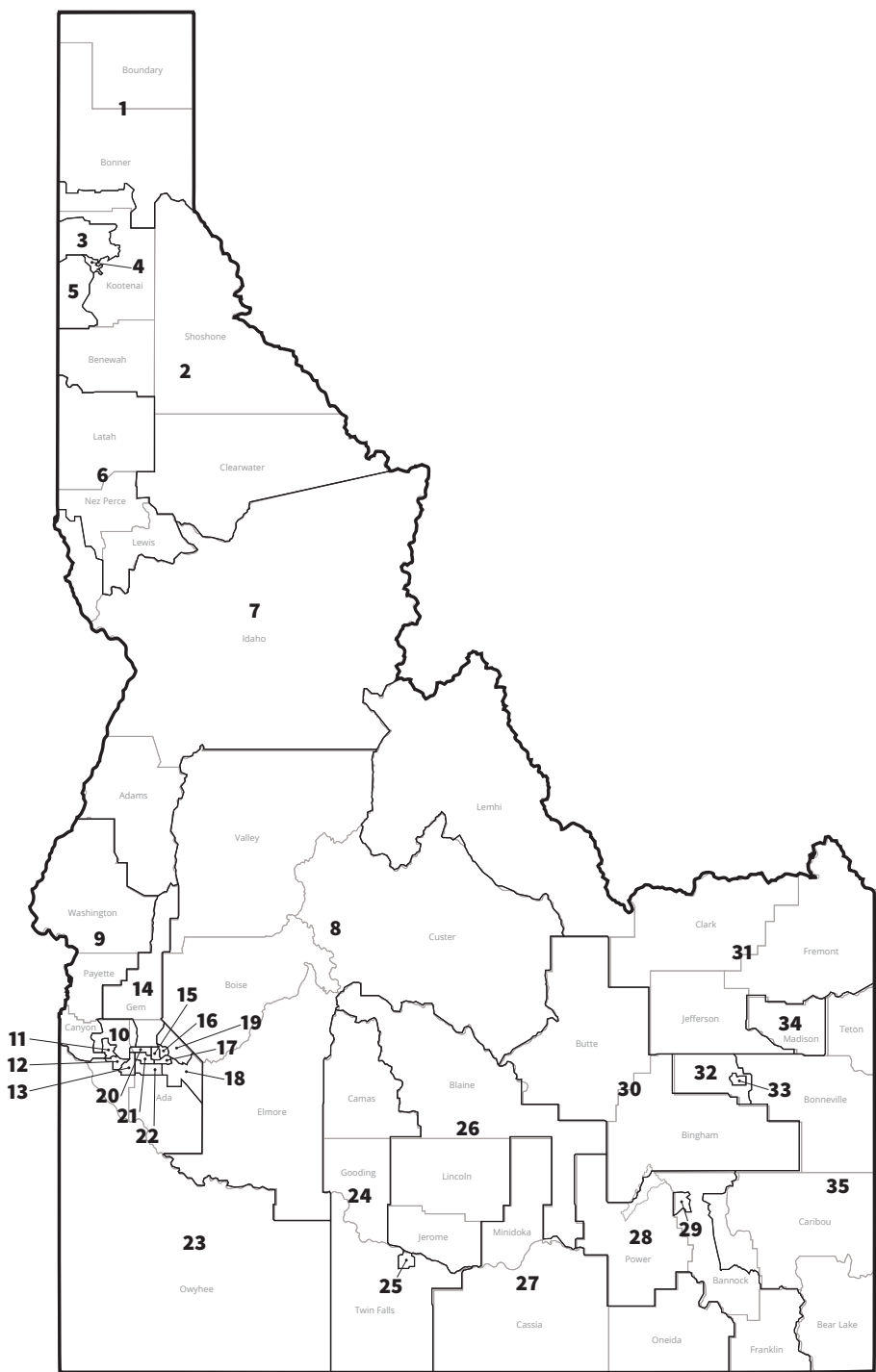
# Idaho Counties

County	County Seat	Zip Code	Phone
Ada	Boise	83704-0000	287-6860
Adams	Council	83612-0048	253-4561
Bannock	Pocatello	83205-0000	236-7333
Bear Lake	Paris	83261-0190	945-2212
Benewah	St. Maries	83861-1852	245-3212
Bingham	Blackfoot	83221-1776	782-3164
Blaine	Hailey	83333-8429	788-5510
Boise	Idaho City	83631-1300	392-4431
Bonner	Sandpoint	83864-1794	255-3631
Bonneville	Idaho Falls	83402-3582	529-1363
Boundary	Bonnors Ferry	83805-0419	267-2242
Butte	Arco	83213-0737	527-3021
Camas	Fairfield	83327-0430	764-2242
Canyon	Caldwell	83605-3522	454-7337
Caribou	Soda Springs	83276-0775	547-4324
Cassia	Burley	83318-1862	878-5240
Clark	Dubois	83423-0205	374-5304
Clearwater	Orofino	83544-0586	476-5615
Custer	Challis	83226-0385	879-2360
Elmore	Mountain Home	83647-3000	587-2130
Franklin	Preston	83263-1232	852-1090
Fremont	St. Anthony	83445-1548	624-7332
Gem	Emmett	83617-3096	365-4561
Gooding	Gooding	83330-0417	934-4841
Idaho	Grangeville	83530-1948	983-2751
Jefferson	Rigby	83442-0000	745-7756
Jerome	Jerome	83338-2344	644-2714
Kootenai	Coeur d'Alene	83816-9000	446-1030
Latah	Moscow	83843-0568	883-2249
Lemhi	Salmon	83467-3900	742-1667
Lewis	Nezperce	83543-5065	937-2661
Lincoln	Shoshone	83352-5364	886-7641
Madison	Rexburg	83440-0389	359-6244
Minidoka	Rupert	83350-0368	436-9511
Nez Perce	Lewiston	83501-0896	799-3020
Oneida	Malad	83252-1200	766-4116
Owyhee	Murphy	83650-0128	495-2421
Payette	Payette	83661-2473	642-6000
Power	American Falls	83211-1200	226-7611
Shoshone	Wallace	83873-2348	752-1264
Teton	Driggs	83422-0000	354-8780
Twin Falls	Twin Falls	83301-0126	736-4004
Valley	Cascade	83611-1350	382-7100
Washington	Weiser	83672-0670	414-2092

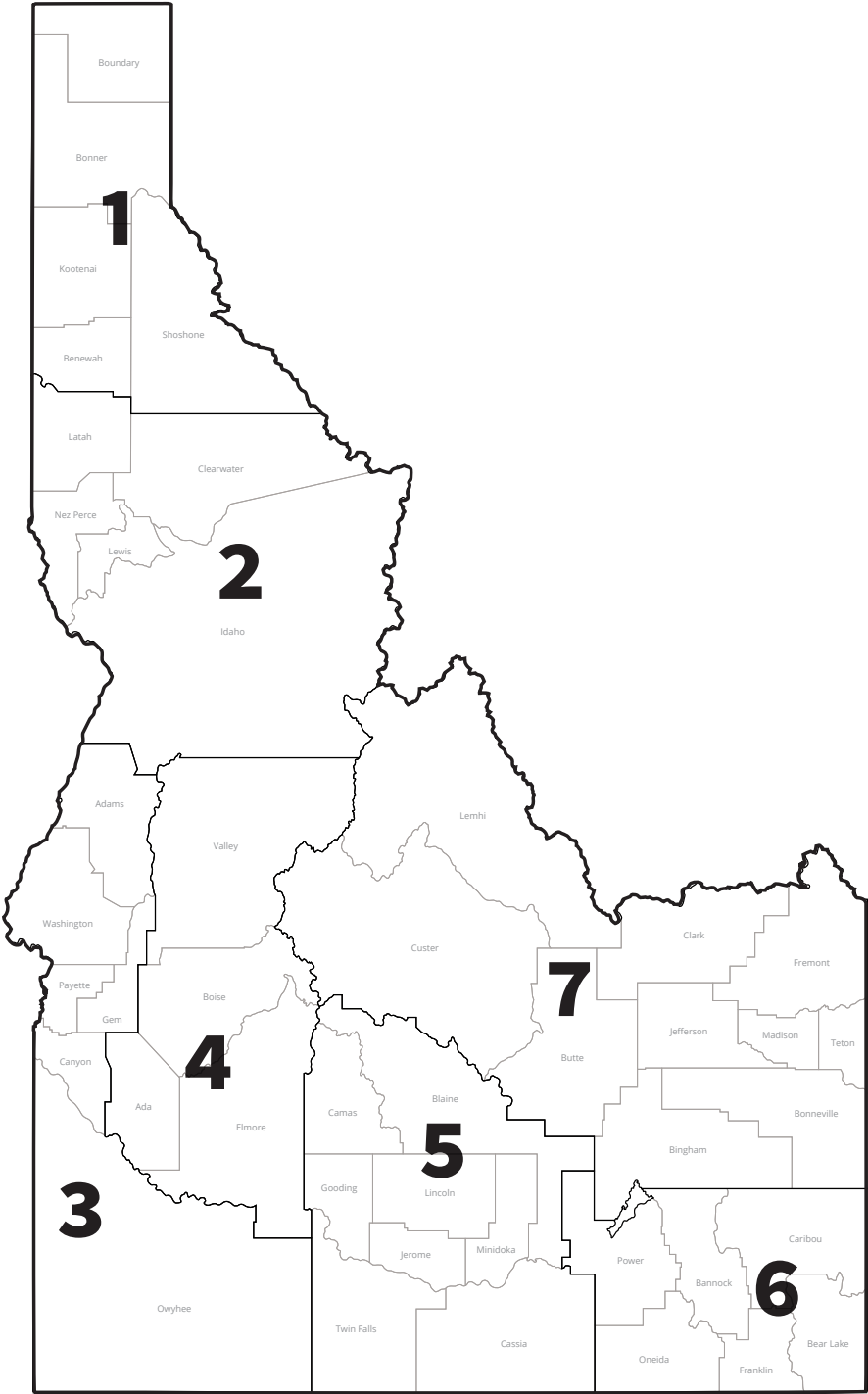
# Congressional Districts (2022)



# Legislative Districts (2022)



# Judicial Districts (2022)



# **Title 34**

## **Elections**



## 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; am. 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; am. 1971, Ch. 194; am. 1975, Ch. 174; am. 1979, Ch. 309; am. 2011, Ch. 11; am. 2012, Ch. 33; am. 2015, Ch. 292]

**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; am. 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; am. 1971, Ch. 194; am. 1972, Ch. 350; am. 1973, Ch. 304; am. 1982, Ch. 253]

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

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

## IDAHO ELECTION LAWS

**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 or section 34-219 [34-220], *Idaho Code*, 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.

(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



## IDAHO ELECTION LAWS

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; am. 1993, Ch. 313; am. 2007, Ch. 92; am. 2009, Ch. 341; am. 2010, Ch. 185; am. 2011, Ch. 11; am. 2013, Ch. 135; am. 2015, Ch. 285; am. 2015, Ch. 292; am. 2018, Ch. 238; am. 2022, Ch. 73]

### **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) If a person claims an exemption under section 63-602G, *Idaho Code*, then the homestead for which the exemption is claimed shall be the person’s residence for voting purposes. If no such exemption is claimed, then in determining the 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, 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.

## IDAHO ELECTION LAWS

(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; am. 1971, Ch. 194; am. 1982, Ch. 215; am. 1989, Ch. 147; am. 1996, Ch. 322; am. 2022, Ch. 81]

**34-108. “ELECTION OFFICIAL” DEFINED.** “Election official” means the secretary of state, any county clerk, registrar, judge of election, clerk of election, canvassing board or board of county commissioners engaged in the performance of election duties as required by law.

**History:** [S.L. 1970, Ch. 140; am. 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]

**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.

## IDAHO ELECTION LAWS

(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; am. 1972, Ch. 350; am. 1982, Ch. 137]

**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; am. 1995, Ch. 215]

## IDAHO ELECTION LAWS

**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 make 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; am. 2003, Ch. 48]

**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 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 develop and provide to each county clerk instructions and standards for the verification, acceptance, and rejection of elector signatures for any process requiring signature verification. 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

## IDAHO ELECTION LAWS

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; am. 2021, ch. 262]

**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; am. 2015, Ch. 292]

**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

## IDAHO ELECTION LAWS

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; am. 1971, Ch. 69]

### **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; am. 1971, Ch. 69]

**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; am. 1972, Ch. 131]

## IDAHO ELECTION LAWS

**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]

**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]

**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.

## IDAHO ELECTION LAWS

(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.

(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.



## IDAHO ELECTION LAWS

(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]

**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]

**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;
- (f) Certified ballot language from special districts for any question placed on the ballot; and
- (g) Absentee ballot affidavit envelopes, including the indication of the signature's acceptance or rejection.

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

- (a) Notice of election;
- (b) Personal identification affidavit;
- (c) Ballot tracking logs;
- (d) Automated tabulation election logs;

## IDAHO ELECTION LAWS

(e) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device; and

(f) 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; am. 2012, Ch. 211; am. 2013, Ch. 285; am. 2018, Ch. 78; am. 2021, ch. 262]

### 34-218. ELECTION ADMINISTRATION — PRIVATE MONEYS

**PROHIBITED.** Elections held in this state must be funded only by lawful appropriations from the government of the United States, the state of Idaho, or other local governments, including counties, cities, and special taxing districts. No county clerk, local elections office, or other local governing body administering or conducting an election may accept or expend moneys in any amount or accept any items or goods with a total value in excess of one hundred dollars (\$100) from any private persons, corporations, organizations, business entities, political parties, or any other private entity. This section does not apply to the collection of fees authorized by law or to the donation of a facility or space for the use of election officials in holding an election.

**History:** [S.L. 2021, ch. 275, sec. 1, p. 827]

### 34-219. INVESTIGATION OF CANDIDATE QUALIFICATIONS. (1)

Upon the request of a registered voter, the secretary of state or a county clerk shall investigate the legal qualifications of a candidate for office and shall exclude from the ballot a candidate who fails to satisfy the legal qualifications for the office being sought. A person excluded from the ballot pursuant to this subsection may challenge such exclusion in the district court in which the person's residence for voting purposes is located.

(2) The secretary of state or a county clerk may establish a deadline by which a request made pursuant to subsection (1) of this section must be filed, which deadline shall not be earlier than fourteen (14) days following the deadline to file a declaration of candidacy pursuant to section 34-704, *Idaho Code*.

(3) Upon the request of the secretary of state or a county clerk, the state or a political subdivision shall provide information within the state's or the political subdivision's possession that is needed to ascertain the legal qualifications of a candidate for office.

**History:** [S.L. 2022, ch. 81, sec. 2, p. 230]

## IDAHO ELECTION LAWS

**34-220. JUDICIAL REVIEW — ELECTION RESULTS.** (1) If the vote count in an election has been completed and it appears to the secretary of state or a county clerk that an error has occurred in the administration of such election that may be sufficient to change the result of the election, then the secretary of state or clerk of the county in which such error appears to have occurred may petition the district court of the county in which the error appears to have occurred for judicial review of the election. The petition shall be filed within twenty-eight (28) days of the date of the election.

(2) The secretary of state or the county clerk initiating a petition under this section shall serve notice of the petition on:

- (a) Any candidate appearing on the ballot in such election; and
- (b) Any taxing district or other party responsible for placing an initiative, a referendum, or another question on the ballot in such election.

(3) The district court may:

- (a) Give such precedence on its docket to a petition under this section as the circumstances may require; and
- (b) Consider any evidence related to the error alleged in the petition.

(4) The scope of the district court's review shall be limited to whether the error alleged in the petition occurred and, if so, whether the error was sufficient to change the result of the election. If the court determines that the error was sufficient to change the result of the election, then the court shall declare the election void and order a new election to be held at the expense of the agency where the error occurred. The new election shall be held as soon as practicable and need not occur on a date provided in section 34-106, *Idaho Code*.

(5) Court proceedings held pursuant to this section shall be conducted according to the Idaho rules of civil procedure, as applicable, and any other rules deemed pertinent by the district court.

**History:** [S.L. 2022, ch. 73, sec. 1, p. 212]

## 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.

## IDAHO ELECTION LAWS

(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; am. 1971, Ch. 210; am. 1972, Ch. 141; am. 1973, Ch. 177; am. 1974, Ch. 212; am. 1976, Ch. 73; am. 1977, Ch. 8; am. 1992, Ch. 152; am. 2009, Ch. 52; am. 2019, Ch. 96]

**34-302. DESIGNATION OF PRECINCT POLLING PLACES.** 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; am. 1973, Ch. 304; am. 1978, Ch. 38; am. 1985, Ch. 115; am. 2019, Ch. 96; am. 2019, Ch. 283]

### **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,

## IDAHO ELECTION LAWS

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:** [34-303, added 1970, Ch. 140, sec. 34, p. 351; am. 1971, Ch. 210, sec. 2, p. 919; am. 1977, Ch. 8, sec. 4, p. 17; am. 2003, Ch. 48, sec. 3, p. 182; am. 2004, Ch. 113, sec. 1, p. 386; am. 2018, Ch. 154, sec. 1, p. 311; am. 2019, Ch. 96, sec. 3, p. 345]

**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 the 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; am. 1972, Ch. 141; am. 1973, Ch. 304; am. 2006, Ch. 70; am. 2009, Ch. 341]

## IDAHO ELECTION LAWS

### **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]

**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; am. 1989, Ch. 261; am. 1992, Ch. 284]

**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]

**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.

(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

## IDAHO ELECTION LAWS

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; am. 2011, Ch. 319; am. 2019, Ch. 97]

## 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]



## IDAHO ELECTION LAWS

**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; am. 1971, Ch. 192; am. 1972, Ch. 392; am. 1973, Ch. 304; am. 1982, Ch. 253]

**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]

**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*.



## IDAHO ELECTION LAWS

(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; am. 1971, Ch. 192; am. 1972, Ch. 197; am. 1987, Ch. 256; am. 1997, Ch. 356; am. 2011, Ch. 319; am. 2016, Ch. 359]

**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]

**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; am. 2011, Ch. 319]

**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; am. 1971, Ch. 192; am. 1991, Ch. 337; am. 1995, Ch. 215]

**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.

## IDAHO ELECTION LAWS

(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; am. 1971, Ch. 192; am. 1974, Ch. 172; am. 1981, Ch. 105; am. 1994, Ch. 67; am. 2001, Ch. 99; am. 2005, Ch. 127; am. 2016, Ch. 359]

**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; am. 1995, Ch. 215; am. 1997, Ch. 356; am. 2011, Ch. 285; am. 2016, Ch. 359]

**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 principal 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*;

## IDAHO ELECTION LAWS

(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.

(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 or 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]

**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.

## IDAHO ELECTION LAWS

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; am. 1995, Ch. 215; am. 2003, Ch. 48]

**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. 1995, Ch. 215]

**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.

## IDAHO ELECTION LAWS

(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; am. 1971, Ch. 192; am. 1972, Ch. 392; am. 1988, Ch. 233; am. 1995, Ch. 215; am. 2003, Ch. 48; am. 2011, Ch. 319; am. 2012, Ch. 211]

**34-411A. PRIMARY ELECTIONS—CHANGING PARTY AFFILIATION—UNAFFILIATED ELECTORS.** (1) For a primary election, including a presidential 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 or 34-732, 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; am. 2012, Ch. 211, am. 2020, ch. 55]

**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; am. 1982, Ch. 216; am. 1995, Ch. 215]

## IDAHO ELECTION LAWS

### **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; am. 1972, Ch. 392; am. 1977, Ch. 15; am. 1982, Ch. 137; am. 1983, Ch. 213; am. 1995, Ch. 215; am. 2019, Ch. 96]

### **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; am. 1972, Ch. 392; am. 2001, Ch. 99; am. 2003, Ch. 48; am. 2004, Ch. 163; am. 2015, Ch. 141; am. 2016, Ch. 359; am. 2018, Ch. 78]

### **34-417. [REPEALED: S.L. 2019, Ch. 96]**

**34-418. WEEKLY REVIEW OF NEW VOTER REGISTRATIONS — REPORT TO INTERESTED OFFICIALS.** (1) 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.

(2) The secretary of state, in conjunction with the county clerks, shall make an annual report to the legislature regarding voter registration maintenance actions performed by them.

**History:** [S.L. 1970, Ch. 140; am. 2006, Ch. 70; am. 2022, Ch. 172]

## IDAHO ELECTION LAWS

**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; am. 2016, Ch. 359]

**34-420. NO ELECTOR'S REGISTRATION SHALL BE CANCELED WHILE 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; am. 1987, Ch. 20; am. 2016, Ch. 359; am. 2019, Ch. 96]

**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]

**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



## IDAHO ELECTION LAWS

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; am. 1982, Ch. 137; am. 1989, Ch. 146; am. 2006, Ch. 70; am. 2019, Ch. 96]

**34-433. MONTHLY CORRECTION OF ELECTION REGISTER FROM REPORTED DEATHS.** (1) The state board of health and welfare shall, on or about the twenty-fifth day of each month, furnish to the secretary of state a listing showing the name, date of birth, 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 and welfare in the board's report to the secretary of state.

(2) A version of the list provided to the secretary of state by the state board of health and welfare pursuant to subsection (1) of this section may be requested from the board as a public record, provided that the publicly requestable list shall include each decedent's name, county of residence, residence address, and age at the time the publicly available list is created, but shall not include any decedent's date of birth or any other information.

**History:** [S.L. 1970, Ch. 140; am. 2022, Ch. 314]

**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]

**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.



## IDAHO ELECTION LAWS

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; am. 1975, Ch. 124; am. 1977, Ch. 15; am. 1978, Ch. 27; am. 1995, Ch. 215; am. 2015, Ch. 282)

**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]

**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 voter 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; am. 1972, Ch. 392; am. 1973, Ch. 304; am. 1976, Ch. 344; am. 1982, Ch. 137; am. 2003, Ch. 48]

**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.

## IDAHO ELECTION LAWS

(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 the 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; am. 2003, Ch. 48]

**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; am. 1988, Ch. 71; am. 2006, Ch. 70]

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

**34-439. [REPEALED: S.L. 2021, Ch. 863]**

**34-439A. [REPEALED: S.L. 2021, Ch. 863]**

## 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:

## IDAHO ELECTION LAWS

- (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. 1978, Ch. 256; am. 1985, Ch. 42; am. 1987, Ch. 262]

**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

## IDAHO ELECTION LAWS

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.

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; am. 1975, Ch. 21; am. 1976, Ch. 351; am. 2011, Ch. 285]

**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

## IDAHO ELECTION LAWS

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; am. 1976, Ch. 351; am. 2006, Ch. 397]

**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]

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

**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; am. 1971, 1st E.S., Ch. 9]

## 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; am. 1971, Ch. 193; am. 1975, Ch. 174; am. 1979, Ch. 309; am. 2009, Ch. 341; am. 2012, Ch. 33; am. 2015, Ch. 292]

## IDAHO ELECTION LAWS

**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; am. 2004, Ch. 112; am. 2009, Ch. 341]

**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; am. 1973, Ch. 304; am. 1984, Ch. 131; am. 1985, Ch. 42]

**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.

(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; am. 1996, Ch. 28]

**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

## IDAHO ELECTION LAWS

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; am. 1983, Ch. 213; am. 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]

**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; am. 1996, Ch. 28]

**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.

## IDAHO ELECTION LAWS

(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; am. 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; am. 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; am. 1994, Ch. 181; am. 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.



## IDAHO ELECTION LAWS

(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; am. 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; am. 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.

(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; am. 1974, Ch. 182; am. 1994, Ch. 277; am. 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.

## IDAHO ELECTION LAWS

(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; am. 1981 (E.S.), Ch. 2; am. 1996, Ch. 28; am. 2019, Ch. 227]

**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. 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.

(2) 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 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 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.

## IDAHO ELECTION LAWS

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; am. 1972, Ch. 46; am. 1985, Ch. 29; am. 1996, Ch. 28; am. 2015, Ch. 310]

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

## IDAHO ELECTION LAWS

(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 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; am. 1972, Ch. 46; am. 1985, Ch. 29; am. 1996, Ch. 28; am. 2015, Ch. 282; am. 2015, Ch. 310; am. 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; am. 1982, Ch. 332; am. 1993, Ch. 159; am. 1996, Ch. 28]

**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 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.

## IDAHO ELECTION LAWS

(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 sheriffs' school sponsored by the Idaho sheriffs' association.

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

### **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; am. 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; am. 1971, Ch. 193; am. 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.

## IDAHO ELECTION LAWS

(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; am. 1971, Ch. 193; am. 1996, Ch. 28]

### **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; am. 1994, Ch. 54; am. 1996, Ch. 28; am. 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; am. 1972, Ch. 115; am. 1984, Ch. 80; am. 1996, Ch. 28]

**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.

## IDAHO ELECTION LAWS

(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, and is a registered elector of 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; am. 1971, Ch. 29; am. 1972, Ch. 128; am. 1975, Ch. 174; am. 1979, Ch. 309; am. 1996, Ch. 28; am. 2011, Ch. 285; ; am. 2021, ch. 203]

**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.

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

**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*.

(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.

## IDAHO ELECTION LAWS

(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. 1972, Ch. 345; am. 1985, Ch. 253; am. 1987, Ch. 75; am. 1998, Ch. 300; am. 2007, Ch. 313]

**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; am. 2007, Ch. 313]

**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. 1996, Ch. 28]



## IDAHO ELECTION LAWS

**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; am. 2017, Ch. 21]

### 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) Declarations of candidacy shall include campaign contact information, including phone numbers.

(3) The form described in subsection (1) of this section shall include a sworn verification that the person satisfies the legal qualifications for the office being sought. Any person filing a form described in subsection (1) of this section shall disclose on such form whether the person has claimed an exemption under section 63-602G, *Idaho Code*, and the address of any homestead for which such exemption is claimed by the person and, if married, the person's spouse.

(4) All filing fees shall be paid in cash, cashier's check, postal money orders, credit card, debit card, or personal check. Any transaction cost associated with processing a credit card or debit card payment that is charged to the office receiving a candidate filing fee may be added to said filing fee

**History:** [S.L. 1970, Ch. 140; am. 1970, Ch. 231; am. 1983, Ch. 213; am. 2022, Ch. 10; am. 2022, Ch. 81; am. 2022, Ch. 305]

## IDAHO ELECTION LAWS

### **34-702. REQUIREMENTS FOR WRITE-IN CANDIDATES AT PRIMARY.**

(1) 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:

(a) Receive at least the following number of write-in votes at the primary election:

- (i) One thousand (1,000) for any statewide office;
- (ii) Five hundred (500) for a congressional district office;
- (iii) Fifty (50) for a legislative district office; or
- (iv) Five (5) for a county office; and

(b) File a declaration of intent for that office, pursuant to section 34-702A, *Idaho Code*.

(2) Candidates who are required to file with the secretary of state shall pay the filing fee required for that office no later than the deadline for filing a declaration of intent pursuant to section 34-702A, *Idaho Code*, or shall file a petition pursuant to section 34-626, *Idaho Code*.

(3) No write-ins shall be allowed for judicial office.

**History:** [S.L. 1970, Ch. 140; am. 1970, Ch. 231; am. 1976, Ch. 60; am. 1996, Ch. 28; am. 2020, Ch. 69]

### **34-702A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES.**

(1) No write-in vote for any office in a primary, special, or general election shall be counted unless a completed declaration of intent form 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 or party precinct committeeman office. Such declaration of intent shall be filed no later than the eighth Friday before the day of election. For a write-in candidate for president, the declaration shall include a certification of the write-in candidate's vice presidential and presidential electors, all of whom must be qualified to serve in their respective offices. The secretary of state shall prescribe the form for said declarations.

(2) In those counties that 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; am. 1992, Ch. 176; am. 1993, Ch. 313; am. 1999, Ch. 221; am. 2001, Ch. 272; am. 2010, Ch. 162; am. 2020, Ch. 69; am. 2021, ch. 272; am. 2021, ch. 325]

**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

## IDAHO ELECTION LAWS

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. 1971, Ch. 5; am. 1972, Ch. 46; am. 1976, Ch. 60]

**34-704. DECLARATION OF CANDIDACY.** (1) 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 8:00 a.m. on the twelfth Monday preceding the primary election and 5:00 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.

(2) 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.

(3) Independent candidates shall file their declaration of candidacy in the manner provided in section 34-708, *Idaho Code*.

(4) All information in declarations of candidacy shall be made publicly available upon request.

**History:** [S.L. 1971, Ch. 5; am. 1971, Ch. 188; am. 1972, Ch. 46; am. 1972, Ch. 346; am. 1975, Ch. 174; am. 1976, Ch. 60; am. 1979, Ch. 309; am. 1983, Ch. 213; am. 1984, Ch. 8; am. 1984, Ch. 173; am. 1989, Ch. 70; am. 2003, Ch. 48; am. 2012, Ch. 211; am. 2022, Ch. 305]

**34-705. WITH WHOM DECLARATIONS FILED.** (1) 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.

(2) 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 for placement on the ballot.

## IDAHO ELECTION LAWS

(3) The secretary of state shall certify the name of a candidate being appointed by the appropriate central committee pursuant to section 34-714, *Idaho Code*, by no later than the next business day after the appointment is received in the secretary of state's office, if received after the certification of candidates to the county clerks under subsection (2) of this section.

**History:** [S.L. 1971, Ch. 5; am. 1971 (E.S.), Ch. 9; am. 1976, Ch. 60; am. 2019, Ch. 96]

**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.

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; am. 1971, Ch. 188; am. 1971, 1st E.S., Ch. 9; am. 1976, Ch. 60; am. 1989, Ch. 70]

**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; am. 1971, Ch. 5; am. 1971, 1st E.S., Ch. 9; am. 1972, Ch. 346; am. 1973, Ch. 122; am. 1980, Ch. 236; am. 2003, Ch. 94]

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

## IDAHO ELECTION LAWS

(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*, on a form similar to that used for recall petitions under chapter 17, title 34, *Idaho Code*, as prescribed by the secretary of state.

(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; am. 1979, Ch. 309; am. 1995, Ch. 115; am. 1996, Ch. 28; am. 2003, Ch. 293; ; am. 2021, ch. 272]

**34-708A. INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE-PRESIDENT.** (1) Persons who desire to be independent candidates for the offices of president and vice-president, must file declarations of candidacy as independent candidates during the period set forth in section ~~34-704~~, *Idaho Code*. 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.

(2) 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.

(3) Signatures on the petitions required in this section shall be verified in the manner prescribed in Section ~~34-1807~~, *Idaho Code*, on a form similar to that used for recall petitions under chapter 17, title 34, *Idaho Code*, as prescribed by the secretary of state; except that the petition circulators are not required to be Idaho residents.

**History:** [S.L. 1977, Ch. 14; am. 1979, Ch. 309; am. 1985, Ch. 42; am. 1987, Ch. 262; am. 1996, Ch. 28; am. 2011, Ch. 285; ; am. 2021, ch. 208; am. 2021, ch. 272]

**34-709-34-710. [REPEALED: S.L. 1971, 1st E.S., Ch. 9]**

## IDAHO ELECTION LAWS

**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; am. 1972, Ch. 346; am. 1976, Ch. 60; am. 1984, Ch. 131; am. 1985, Ch. 42; am. 2003, Ch. 94]

**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; am. 1984, Ch. 131; am. 1985, Ch. 42]

**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; am. 1971, Ch. 188; am. 1971, 1st E.S., Ch. 9; am. 1972, Ch. 346; am. 1976, Ch. 60]

**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; am. 1975, Ch. 174; am. 1976, Ch. 60; am. 1979, Ch. 309; am. 2012, Ch. 33; am. 2015, Ch. 292]

## IDAHO ELECTION LAWS

**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; am. 1971, 1st E.S., Ch. 9; am. 1975, Ch. 21; am. 1976, Ch. 60; am. 1989, Ch. 70; am. 1996, Ch. 28; am. 1999, Ch. 222]

**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.



## IDAHO ELECTION LAWS

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; am. 1972, Ch. 346; am. 1976, Ch. 60; am. 1977, Ch. 21; am. 1983, Ch. 213; am. 1996, Ch. 28; am. 1999, Ch. 222]

**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 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; am. 1972, Ch. 333]

**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



## IDAHO ELECTION LAWS

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; am. 1999, Ch. 222; am. 2011, Ch. 11; am. 2015, Ch. 155]

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

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

**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 the November prior to the presidential primary.

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

**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 (\$1,000) 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 from 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]

## IDAHO ELECTION LAWS

**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 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. COST 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]

**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; am. 2015, Ch. 292]

### Chapter 8: Registration of Electors [REPEALED]

**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.”

## IDAHO ELECTION LAWS

(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; am. 2013, Ch. 285]

**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; am. 1975, Ch. 174; am. 1979, Ch. 309; am. 2011, Ch. 11]

**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.

## IDAHO ELECTION LAWS

(4)(a) The names of candidates that appear on election ballots for federal, state, county, and city offices shall be rotated in the manner determined by the secretary of state.

(b) The names of candidates that appear on election ballots for other offices shall be rotated in the manner determined by the secretary of state for any political entity whose number of registered voters at the last general election exceeds one hundred thousand (100,000).

(c) The order of candidates for office in all 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; am. 1971, Ch. 189; am. 1987, Ch. 313; am. 2011, Ch. 285; am. 2012, Ch. 211; am. 2015, Ch. 282; am. 2022, Ch. 99; am. 2022, Ch. 99]

**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]

**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 when needed.

(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.

## IDAHO ELECTION LAWS

(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; am. 1971, Ch. 189; am. 1972, Ch. 130; am. 1983, Ch. 213; am. 2001, Ch. 272; am. 2011, Ch. 319; am. 2012, Ch. 57; am. 2020, Ch. 69]

**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 the November prior to a primary or presidential 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*.

## IDAHO ELECTION LAWS

(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 or presidential primary election but shall receive a nonpartisan ballot when such 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; am. 2015, Ch. 292]

**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; am. 1971, 1st E.S., Ch. 9]

**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

## IDAHO ELECTION LAWS

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.** (1) 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 when needed.

(2) 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.

(3) 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; am. 1971, Ch. 189; am. 1977, Ch. 12; am. 2020, Ch. 69]

**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; am. 1988, Ch. 293; am. 2013, Ch. 285]

**34-909. GENERAL ELECTION SAMPLE BALLOTS FORWARDED TO COUNTIES BY SECRETARY OF STATE.** (1) The secretary of state, no later than September 7, shall provide the necessary general election sample ballot layout to each of the county clerks.



## IDAHO ELECTION LAWS

(2) The sample ballot layout shall contain the proper office titles, order of offices and ballot layout for the general election, with instructions for placement of candidates seeking election for federal, state, legislative, county and precinct offices and candidates seeking judicial office or retention. If a county is within more than one (1) legislative district, the secretary of state shall provide instructions on the requirements for a separate ballot for each legislative district that is within the county.

(3) The secretary of state shall certify to the county clerks the names and political party of the candidates qualified for placement on the general election ballot for all federal, state and legislative district offices on the sample ballots, along with any judicial candidates, by no later than the ninth Friday prior to the general election.

(4) The secretary of state shall certify the name of a candidate being appointed by the appropriate central committee as provided by section 34-715, Idaho Code, by no later than the next business day after the appointment is received in the secretary of state's office, if received after the certification of candidates to the county clerks under subsection (3) of this section.

**History:** [S.L. 1970, Ch. 140; am. 1976, Ch. 60; am. 1984, Ch. 131; am. 1985, Ch. 42; am. 2019, Ch. 96]

**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; am. 2011, Ch. 285; am. 2013, Ch. 285]

**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 tickets 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]

**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



## IDAHO ELECTION LAWS

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]

**34-913. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS.** (1) Notwithstanding any other provision of law, on and after July 1, 2021, any taxing district that proposes to submit any question to the electors of the district that would authorize any bonded indebtedness must 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 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 on 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.

## IDAHO ELECTION LAWS

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

(4) In order to be binding, a ballot question to authorize a bond must include the information and language required by this section in its official statement.

(5) Upon a determination by a court, pursuant to section 34-2001A, *Idaho Code*, that the taxing district failed to comply with the provisions of this section, the court must declare the outcome of the ballot question invalid and award court costs and fees to the prevailing party.

**History:** [S.L. 2021, ch. 288]

### **34-914. DISCLOSURES IN ELECTIONS TO AUTHORIZE A LEVY.**

(1) Notwithstanding any other provision of law, on and after July 1, 2021, 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)(h) and 33-802(4), *Idaho Code*, and except for levies relating to bonded indebtedness where section 34-913, *Idaho Code*, applies, must 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 \$100,000 of taxable assessed value, per year, based on current conditions.”** If the taxing district proposing the levy has an existing levy of the same type that is set to expire at the time that the proposed levy will begin, an additional statement may be provided along the following lines: **“The proposed levy replaces an existing levy that will expire on \_\_\_\_\_ and that currently costs \$\_\_\_\_\_ per \$100,000 of taxable assessed value.”** The statement shall also disclose that, if the proposed levy is approved, the tax per \$100,000 of taxable assessed value is either: (i) not expected to change or (ii) is expected to increase or decrease the tax by \$\_\_\_\_\_ per \$100,000 of taxable assessed value. The dollar amounts referenced in this paragraph shall be calculated by multiplying the expected levy rate by one hundred thousand dollars (\$100,000);

(c) The length of time, reflected in months or years, in which the proposed levy will be assessed; and

(d) If an existing levy is referenced, the expiration date of the levy must also be provided.

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

## IDAHO ELECTION LAWS

(3) In order to be binding, a ballot question to authorize a levy must include the information and language required by this section in its official statement. The ballot question may not include other information or language regarding any other bond, levy, or matter, whether previous, current, or proposed, except as authorized under this section.

(4) Upon a determination by a court, pursuant to section 34-2001A, *Idaho Code*, that the taxing district failed to comply with the provisions of this section, the court must declare the outcome of the ballot question invalid and award court costs and fees to the prevailing party

**History:** [S.L. 2021, ch. 288]

### 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

## IDAHO ELECTION LAWS

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.

(8) A person may make application for an absent elector's ballot by use of a properly executed federal postcard application as provided for in the laws of the United States known as uniformed and overseas citizens absentee voting act (UOCAVA, 52 U.S.C. 20301 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; am. 1972, Ch. 157; am. 1973, Ch. 304; am. 1976, Ch. 353; am. 1987, Ch. 167; am. 1994, Ch. 122; am. 1995, Ch. 215; am. 2002, Ch. 236; am. 2003, Ch. 48; am. 2010, Ch. 332; am. 2011, Ch. 319; am. 2013, Ch. 135; am. 2016, Ch. 137; am. 2019, Ch. 96; am. 2020, Ch. 286]

## IDAHO ELECTION LAWS

### **34-1002A. EMERGENCY SITUATION ABSENTEE BALLOT—APPLICATION.**

(1) A registered elector who has not previously requested an absentee ballot for the same election and who is physically unable to vote in person at the elector's designated polling place on the day of the election because of an emergency situation requiring hospitalization of the elector may request an emergency situation absentee ballot by filing an emergency situation absentee ballot application with the county clerk. The secretary of state shall prescribe the form for the emergency situation absentee ballot application.

(a) The emergency application may be submitted to the county clerk up to five (5) days prior to the election but shall be received by the county clerk no later than 5:00 p.m. on the Monday before the election, in order to allow for the coordination of ballot delivery to the requesting elector at the hospital.

(b) The emergency application shall be signed personally by the applicant.

(c) The situation rendering the requesting elector physically unable to vote in person at the polling place must have occurred after 5:00 p.m. on the eleventh day prior to the election, and the applicant must attest to that fact with the applicant's signature.

(2) Regardless of the time of the request, an absentee ballot delivered under this section must be returned to the county clerk's office from which it was received in order to be counted, in accordance with section 34-1005, *Idaho Code*.

(3) The county clerk shall deem the location of an individual to be an absent elector's polling place, as provided in section 34-1006, *Idaho Code*, solely for the purposes of registering the applicant under section 34-408A, *Idaho Code*, and shall provide the applicant with an emergency situation absentee ballot in the event that the individual who wishes to apply for an emergency situation absentee ballot under this section:

(a) Was not a registered elector at the time the register closed but became eligible for registration following the closing of the register;

(b) Was rendered physically unable to register in person on election day by the emergency situation; and

(c) Was otherwise qualified to request an emergency situation absentee ballot under this section.

**History:** [S.L. 2020, Ch. 286]

**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 county clerk shall arrange for the applicant to vote by absent elector's ballot.

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

(a) Except as provided in paragraph (b) of this subsection, an elector who has designated a political party affiliation shall receive a primary ballot for that political party.

(b) An elector who has designated a political party affiliation pursuant to section 34-404, *Idaho Code*, may receive the primary election ballot of a

## IDAHO ELECTION LAWS

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 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 a political party’s primary ballot, the elector shall receive a nonpartisan ballot.

(e) Once an absentee primary ballot is issued to an elector by the county clerk, the county clerk may not issue the same elector a new absentee primary ballot with a different party affiliation than the absentee ballot originally issued to the elector, unless the original absentee ballot type was issued in error by the county clerk.

(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 no later than forty-five (45) days before that election to all electors who are entitled to vote by absentee ballot.

(4) Pursuant to the uniformed and overseas citizens absentee voting act (UOCAVA, 52 U.S.C. 20301 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-six (46) days prior to the election. The clerk shall notify such witnesses of the date and 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

## IDAHO ELECTION LAWS

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; am. 1973, Ch. 304; am. 1975, Ch. 66; am. 1984, Ch. 131; am. 1993, Ch. 100; am. 1994, Ch. 122; am. 1996, Ch. 74; am. 2010, Ch. 332; am. 2011, Ch. 11; am. 2011, Ch. 319; am. 2019, Ch. 96; ; am. 2021, ch. 323]

**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]

**34-1005. RETURN OF ABSENTEE BALLOT.** (1) 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.

(2) 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, including verifying that the signature matches the signature from such elector's voter registration, and shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office and shall 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; am. 1972, Ch. 157; am. 1995, Ch. 215; am. 2007, Ch. 202; am. 2011, Ch. 285; am. 2021, ch. 262]

**34-1006. COUNTY CLERKS SHALL PROVIDE ONE OR MORE "ABSENT ELECTORS' VOTING PLACE."** (1) 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. Except as provided in section 34-308, *Idaho Code*, every elector shall always be provided the opportunity to vote in person in an election, notwithstanding any declaration of emergency, extreme



## IDAHO ELECTION LAWS

emergency, or disaster emergency by the governor.

(2) Electioneering is prohibited at an “**absent electors’ polling place**” as provided in section 18-2318, *Idaho Code*.

**History:** [S.L. 1970, Ch. 140; am. 1994, Ch. 21; am. 1998, Ch. 163; am. 2020, 1st E.S., ch. 3]

**34-1007. COUNTING ABSENTEE BALLOTS.** (1) In those counties that count ballots at the polls, upon receipt of 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.

(2) In those counties that 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 ballots shall be added to the precinct returns at the time of ballot tabulation. Provided, however, for any election that takes place prior to December 31, 2020, absentee ballots may be opened and scanned beginning seven (7) days prior to election day. If the absentee ballots are opened prior to election day, the ballots shall be securely maintained in a nonproprietary electronic access-controlled room under twenty-four (24) hour nonproprietary video surveillance that is livestreamed to the public and which video must be archived for at least ninety (90) days following the election. The ballots shall be boxed and secured in the same access-controlled room each day after being opened or scanned. A minimum of two (2) election officials must be present whenever absentee ballots are accessed. No results shall be tabulated for absentee ballots until the polls close on the day of the election held prior to December 31, 2020.

(3) 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; am. 2002, Ch. 236; am. 2007, Ch. 202; am. 2020, 1st E.S., ch. 1]

**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; am. 1995, Ch. 215]



## IDAHO ELECTION LAWS

**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; am. 2004, Ch. 248]

**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; am. 1973, Ch. 304]

**34-1011. COUNTY CLERK'S RECORD OF APPLICATIONS FOR ABSENT ELECTOR'S BALLOTS.** (1) 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 and the date on which such absent elector's ballot was returned.

(2) 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.

(3) If an absent elector's ballot is returned to the county clerk by the United States post office as undeliverable, the county clerk shall investigate the validity of the absent elector's registration, and the results of the investigation shall be noted on the record. The secretary of state may promulgate rules to implement proper procedures for investigating the validity of an absent elector's registration.

(4) Such record shall be open to public inspection under proper regulations.

**History:** [S.L. 1970, Ch. 140; am. 2022, Ch. 173]

**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

## IDAHO ELECTION LAWS

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; am. 2016, Ch. 138]

**34-1013. EARLY VOTING BALLOT SECURITY.** (1) A detailed plan for the security of ballots for early voting shall be submitted to the secretary of state for approval no later than the third Friday of January or at least thirty (30) days prior to implementing an early voting plan. Once an early voting plan has been approved by the secretary of state, the plan shall be approved for the entire election year, unless it is modified. Any modified plan shall be submitted to the secretary of state for approval. Once a plan is approved, the county clerk shall notify the secretary of state of the county’s intent to use the early voting process prior to each election and before early voting begins.

(2) At a minimum, the following procedures must be followed:

(a) 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;

(b) 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;

(c) Arrangements shall be made to have a deputy sheriff, police officer or bonded private security firm secure the location; and

## IDAHO ELECTION LAWS

(d) 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; am. 2018, Ch. 155]

**34-1014-34-1027. [REPEALED: S.L. 1970, Ch. 140]**

### 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; am. 1972, Ch. 349; am. 1973, Ch. 304; am. 1993, Ch. 313]

**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; am. 2013, Ch. 285]

**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]

## IDAHO ELECTION LAWS

**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]

**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; am. 1972, Ch. 349; am. 2010, Ch. 246; am. 2013, Ch. 285]

**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]

**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.

## IDAHO ELECTION LAWS

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; am. 1971, Ch. 129; am. 1972, Ch. 349; am. 1973, Ch. 304; am. 2007, Ch. 202]

**34-1108. ASSISTANCE TO VOTER.** (1) If any registered elector is unable, due to physical or other disability, 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 or other disability 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 judge of election in the manner provided above.

**History:** [S.L. 1970, Ch. 140; am. 1972, Ch. 349; am. 1978, Ch. 37; am. 2010, Ch. 235]

**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]

**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]

## IDAHO ELECTION LAWS

**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]

**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; am. 1972, Ch. 349]

**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; am. 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: Canvas 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.

## IDAHO ELECTION LAWS

(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.

(4) After being counted, all ballots shall be sealed and stored until such time as the recount period has passed or a recount has been completed. Ballots may be unsealed and resealed as part of a postelection audit conducted pursuant to section 34-1203A, *Idaho Code*.

**History:** [S.L. 1970, Ch. 140; am. 2011, Ch. 285; am. 2020, Ch. 78; am. 2022, Ch. 32]

**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; am. 1995, Ch. 215]

**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]



## IDAHO ELECTION LAWS

### **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)(a) For any election in which at least one (1) office election or ballot question in the county occurs in both time zones in Idaho, the county clerk shall release no election results to the public until all voting places in the state have closed on election day.

(b) If no office election or ballot question in the county occurs in both time zones in Idaho, the county clerk may release the election results to the public at any time after all voting places in the county 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; am. 1981, Ch. 109; am. 2003, Ch. 48; am. 2016, Ch. 272; am. 2022, Ch. 195]

### **34-1203A. POSTELECTION AUDIT OF SELECTED BALLOTS. (1)**

(a) After the completion of all county canvasses for any primary or general election, including any presidential primary election, the secretary of state shall identify and order a postelection audit of certain paper ballots cast in any election, shall immediately post to the website of the office of the secretary of state a list of the elections, counties, and precincts selected for audit, and shall immediately notify each affected county clerk and county sheriff of the same. Upon receiving such notification, the county sheriff shall immediately impound and take into custody the affected ballots pursuant to the procedures in chapter 23, title 34, *Idaho Code*. Upon completion of the postelection audit, the ballots shall be resealed and returned to the custody of the county clerk, or the county sheriff in the event that the ballots are subject to a recount pursuant to chapter 23, title 34, *Idaho Code*.

(b) A postelection audit authorized pursuant to paragraph (a) of this subsection may be ordered for:

- (i) Any or all federal elections held in Idaho;
- (ii) The election for governor;
- (iii) The statewide office election having the narrowest percentage margin of votes;



## IDAHO ELECTION LAWS

- (iv) The statewide ballot question election having the narrowest percentage margin of votes; and
  - (v) One (1) legislative office election within the county.
- (c) The precincts selected for audit pursuant to paragraph (a) of this subsection shall:
- (i) Be selected by lot by the secretary of state without the use of a computer at an open public meeting governed by the provisions of chapter 2, title 74, *Idaho Code*; and
  - (ii) Not exceed five percent (5%) of the precincts in the county or one (1) precinct, whichever is greater. Provided, however, that multiple precincts may be selected in any county if the number of ballots from the precincts so selected is less than two thousand one hundred (2,100).
- (d) The secretary of state, in lieu of auditing the early or absentee ballots from any precincts selected for postelection audit, may select days, batches, legislative districts, or tabulation machines of early or absentee ballots for audit until the number of ballots selected equals or exceeds the number of early or absentee ballots that were cast from the precincts selected for postelection audit. Such days, batches, legislative districts, or tabulation machines shall be selected under the same requirements by which precincts were selected. The provisions of this paragraph apply only to a county that:
- (i) Does not organize the storage of its early or absentee ballots by precinct;
  - (ii) Organizes the storage of such ballots by day, batch, legislative district, or tabulation machine; and
  - (iii) Publicly reports the election results for early or absentee ballots by day, batch, legislative district, or tabulation machine on the county's website prior to the secretary of state's selection of precincts to be audited.
- (2) The secretary of state shall conduct, and the county clerks shall facilitate, any postelection audit ordered pursuant to subsection (1) of this section. Such an audit shall be open to attendance by news media personnel. By directive issued at least sixty (60) days prior to the election, the secretary of state shall determine the procedures by which the postelection audit is to be conducted. Such procedures shall be developed in consultation with county clerks and shall include provisions allowing each interested candidate and political party, and each political committee that publicly reported expending money on a ballot question for which the results will be audited, to appoint a designated observer. Within the time specified in the directive, the secretary of state shall report the results of any postelection audits on the website of the office of the secretary of state and to the county clerk of each county in which paper ballots were audited.
- (3) The secretary of state may order additional postelection audits, without regard to the election or precinct limitations provided in subsection (1) of this section, if he determines that such action is warranted by the findings of the audits ordered pursuant to subsection (1) of this section. The secretary

## IDAHO ELECTION LAWS

of state shall limit such orders for additional postelection audits to the types of problems identified by the audits performed pursuant to subsection (1) of this section.

(4) The office of the secretary of state shall pay for the cost of any postelection audits conducted pursuant to this section, including reimbursing county clerks for any costs associated with facilitating such audits.

**History:** [S.L. 2022, ch. 32]

**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; am. 1972, Ch. 193]

**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; am. 1972, Ch. 193; am. 1975, Ch. 174; am. 2012, Ch. 33; am. 2015, Ch. 292]

**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; am. 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]

## IDAHO ELECTION LAWS

### **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; am. 1975, Ch. 174; am. 1977, Ch. 17; am. 1979, Ch. 309; am. 1991, Ch. 117; am. 2012, Ch. 33]

**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]

**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]

**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 district offices.

**History:** [S.L. 1970, Ch. 140; am. 1972, Ch. 193; am. 1974, Ch. 5; am. 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

## IDAHO ELECTION LAWS

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]

**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]

**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]

## IDAHO ELECTION LAWS

**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]

**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; am. 1971, Ch. 131]

## IDAHO ELECTION LAWS

### Chapter 13: State Board of Canvassers [REPEALED]

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.** (1) 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*, aquifer 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.

(2) 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.

(3) 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; am. 1993, Ch. 313; am. 1993, Ch. 379; am. 1996, Ch. 298; am. 2009, Ch. 341; am. 2010, Ch. 185; am. 2011, Ch. 11; am. 2021, ch. 325]

**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

## IDAHO ELECTION LAWS

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; am. 2003, Ch. 48; am. 2011, Ch. 285]

**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; am. 1993, Ch. 313]

**34-1404. DECLARATION OF CANDIDACY.** (1) 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, 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, no more 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, no more than seven (7) days following the filing, certify the nominees to be placed on the ballot of the political subdivision.

(2) Nominating petitions shall include campaign contact information for candidates, including phone numbers.

(3) All information in nominating petitions shall be made publicly available upon request.

**History:** [S.L. 1993, Ch. 313; am. 2009, Ch. 341; am. 2010, Ch. 185; am. 2011, Ch. 11; am. 2014, Ch. 162; am. 2022, Ch. 305]



## IDAHO ELECTION LAWS

**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. 2011, Ch. 11; am. 2019, Ch. 96]

**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-six (46) days before an election.

**History:** [S.L. 2011, Ch. 11; am. 2019, Ch. 96]

**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; am. 1993, Ch. 313; am. 2009, Ch. 341; am. 2011, Ch. 11]



## IDAHO ELECTION LAWS

**34-1407. WRITE-IN CANDIDATES.** (1) 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 by no later than the eighth Friday before the date of the election.

(2) 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 the eighth Friday 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; am. 1993, Ch. 313; am. 1997, Ch. 362; am. 2011, Ch. 11; am. 2019, Ch. 96; am. 2020, Ch. 69]

**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; am. 2010, Ch. 185]

**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]

**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; am. 2010, Ch. 185; am. 2011, Ch. 11]

**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

## IDAHO ELECTION LAWS

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:** [S.L. 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]

**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; am. 2014, Ch. 162]

## IDAHO ELECTION LAWS

**34-1414. ELECTION BY ZONES — EXCEPTION FOR CERTAIN POLITICAL SUBDIVISIONS.** Notwithstanding any other provision of law to the contrary, the governing body of any political subdivision that contains no more than one hundred forty (140) registered voters at the last general election may apply to the appropriate board of county commissioners for a determination that the election of the members of the political subdivision's governing body may be held at large instead of by district zones or subdistricts. The board of county commissioners shall make the determination whether to permit the election of the political subdivision's governing body to be elected at large and the county clerk shall provide notice of the board's decision to the affected electors at least ninety (90) days before the next general election. If the board of county commissioners approves the request for an at-large election, the approval shall apply to future elections until revoked by the board of county commissioners.

**History:** [S.L. 2021, ch. 70]

**34-1415. ELECTION ZONES, DISTRICTS, AND SUBDISTRICTS.** Any city or special district subject to the provisions of this chapter whose governing body members are elected by separate zones, districts, or subdistricts shall notify the county clerk of any approved changes in the boundaries of such zones, districts, or subdistricts within thirty (30) days after the approval of such changes or within thirty (30) days prior to the filing deadline for candidates for the governing body, whichever is earlier

**History:** [34-1415, added 2022, ch. 257, sec. 1, p. 837.]

### 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, sec. 110; reen. 1899, p. 33, sec. 101; reen. R.C. & C.L., sec. 459; C.S., sec. 643; I.C.A., sec. 33-1401]

**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 sec. 115; reen. 1899, p. 33, sec. 102; am. R.C. & C.L., sec. 460; C.S., sec. 644; I.C.A., sec. 33-1402]

## IDAHO ELECTION LAWS

**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, sec. 111; reen. 1899, p. 66, sec. 1; am. R.C. & C.L., sec. 461; C.S., sec. 645; I.C.A., sec. 33-1403]

**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, sec. 112; reen. 1899, p. 66, sec. 2; am. R.C. & C.L., sec. 462; C.S., sec. 646; I.C.A., sec. 33-1404]

**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, sec. 113; reen. 1899, p. 66, sec. 3; reen. R.C. & C.L., sec. 463; C.S., sec. 647; I.C.A., sec. 33-1405]

**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, sec. 114; reen. 1899, p. 66, sec. 4; reen. R.C. & C.L., sec. 464; C.S., sec. 648; I.C.A., sec. 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

## IDAHO ELECTION LAWS

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, sec. 115; reen. 1899, p. 66, sec. 5; am. R.C. & C.L., sec. 465; C.S., sec. 649; I.C.A., sec. 33-1407; am. 1980, Ch. 247]

### Chapter 16: Special Elections [REPEALED]

#### **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; am. 1975, Ch. 137; am. 1994, Ch. 181; am. 1995, Ch. 266]

**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.

IDAHO ELECTION LAWS

(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 county 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. If the city is located in two (2) or more counties, the clerk in each county shall perform the functions within that county as provided in section 34-1401, *Idaho Code*.

(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 residing within the district, subdistrict, or zone in which the electors are eligible to vote for the official, equal in number to fifty percent (50%) of the number of electors who cast votes in the last election within the district, subdistrict, or zone. If no such 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, subdistrict, or zone in which the electors are eligible to vote for the official, as calculated at the time the petition is filed.

**History:** [S.L. 1972, Ch. 283; am. 1995, Ch. 266; am. 2003, Ch. 57; am. 2012, Ch. 211; am. 2021, ch. 325; am. 2022, Ch. 228]

**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 (setting out the reasons for recall in no 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 county, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	County	Date
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(Here follow no more than twenty numbered lines for signatures.)

## IDAHO ELECTION LAWS

(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 (setting out the reasons for recall in no 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 county, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	County	Date
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(Here follow no more than 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 (setting out the reasons for recall in no 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 county, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	County	Date
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(Here follow no more than twenty numbered lines for signatures.)

(4) The recall petition for city 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 City of \_\_\_\_\_, respectfully demand

IDAHO ELECTION LAWS

that \_\_\_\_\_, holding the office of \_\_\_\_\_, of the City of \_\_\_\_\_, be recalled by the registered electors of the City of \_\_\_\_\_ for the following reasons (setting out the reasons for recall in no 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 county, and the date I signed this petition are correctly written after my name.

<b>Signature</b>	<b>Printed Name</b>	<b>Residence Street and Number</b>	<b>County</b>	<b>Date</b>
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(Here follow no more than 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 (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 county, and the date I signed this petition are correctly written after my name.

<b>Signature</b>	<b>Printed Name</b>	<b>Residence Street and Number</b>	<b>County</b>	<b>Date</b>
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(Here follow no more than twenty numbered lines for signatures.)

**History:** [S.L. 1972, Ch. 283; am. 1989, Ch. 344; am. 1995, Ch. 266; am. 2013, Ch. 135; am. 2019, Ch. 96; am. 2021, ch. 325]

**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 or organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the secretary of state or county 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



## IDAHO ELECTION LAWS

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.

(2) The secretary of state or county 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 or county clerk, shall inform the person or persons or 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; am. 1975, Ch. 137; am. 2004, Ch. 164; am. 2013, Ch. 135; am. 2021, ch. 325]

**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

ss.

County of \_\_\_\_\_

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 Seal)

\_\_\_\_\_  
Notary Public

Residing at \_\_\_\_\_

**History:** [S.L. 1972, Ch. 283; am. 2004, Ch. 164]

## IDAHO ELECTION LAWS

**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 or county clerk, as the case may be. The secretary of state shall promptly transmit the petitions and attached signature sheets to the appropriate county clerks. 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; am. 1975, Ch. 137; am. 1995, Ch. 266; am. 2004, Ch. 164; am. 2013, Ch. 135; am. 2021, ch. 325]

**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 that the recall petition is in proper form. If the officer being recalled is the secretary of state, the governor shall also be notified.

(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 that the recall petition is in proper form. If the officer being recalled is the county clerk, the secretary of state shall also be notified.

(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, unless the county clerk is the officer being recalled, in which event the secretary of state shall order the special election. The special election must be held on the date prescribed in section

## IDAHO ELECTION LAWS

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 city or 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, the petitioner, and the governing board of the city or special district 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 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 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; am. 1975, Ch. 137; am. 1989, Ch. 344; am. 1993, Ch. 313; am. 1994, Ch. 54; am. 1995, Ch. 266; am. 2004, Ch. 164; am. 2012, Ch. 211; am. 2013, Ch. 135; am. 2020, Ch. 81; am. 2021, ch. 325]

**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; am. 1989, Ch. 344]

**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 proclaimed.

**History:** [S.L. 1972, Ch. 283; am. 2021, ch. 325]

**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; am. 1989, Ch. 344; am. 1995, Ch. 118]

## IDAHO ELECTION LAWS

**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.

(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; am. 2004, Ch. 164; am. 2013, Ch. 135]

**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; am. 1975, Ch. 137; am. 2003, Ch. 57; am. 2013, Ch. 135]

**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.

## IDAHO ELECTION LAWS

(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; am. 1975, Ch. 137; am. 2004, Ch. 164; am. 2013, Ch. 135]

**34-1714. PROHIBITED ACTS—PENALTIES.** (1) A person is guilty of a felony 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, city, or special district 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, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;
  - (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 knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

**History:** [S.L. 1972, Ch. 283; am. 1972, Ch. 382; am. 2021, ch. 325]

## IDAHO ELECTION LAWS

### **34-1715. REFUSAL TO ACCEPT PETITION—MANDATE—**

**INJUNCTION.** If the secretary of state or county 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 or county clerk shall then accept and file the recall petition, with a certified copy of the judgment 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 judgment, which shall be so stated in the judgment. On a showing that the petition is not legally sufficient, the court may enjoin the secretary of state or county 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; am. 2004, Ch. 164; am. 2021, ch. 325]

## **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.** (1) An initiative petition shall embrace only one (1) subject and matters properly connected with it.

(2) 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

IDAHO ELECTION LAWS

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 (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 and Number	City	Date	Legislative District	Official Use Only
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(Here follow no more than twenty numbered lines for signatures.)

(3) 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; am. 1988, Ch. 48; am. and redesisg. 1997, Ch. 266; am. 2013, Ch. 214; am. 2013, Ch. 336; am. 2019, Ch. 96; am. 2020, Ch. 336]

**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 those 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.
- (5) 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.
- (6) 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.



## IDAHO ELECTION LAWS

(7) 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.

(8) 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.

(9) 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.

(10) A copy of all petitions and signature sheets shall be kept by the city clerk as a public record.

(11) 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*.

(12) 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.

(13) Petitioners must submit the signed initiative or referendum petitions 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 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 sections 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 the 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.



## IDAHO ELECTION LAWS

(21) This section does not apply to bond elections.

(22) This section does not apply to any local zoning legislation including, but not limited to, ordinances required or authorized pursuant to chapter 65, title 67, *Idaho Code*.

**History:** [S.L. 2015, Ch. 285, S.L. 2018 Ch. 238]

**34-1801C. INITIATIVE AND REFERENDUM PROCEDURES FOR COUNTIES.** Each county shall allow direct legislation by the people through the initiative and referendum. Counties shall follow the procedures set forth in this chapter subject to the following provisions:

(1) The county prosecuting attorney shall perform the duties assigned to the attorney general.

(2) The county clerk shall perform those duties assigned to the secretary of state.

(3) County initiative and referendum elections shall be held pursuant to section 34-106(8), *Idaho Code*.

(4) Pursuant to section 34-1809, *Idaho Code*, the county prosecuting attorney shall prepare recommendations concerning revision of the initiative or referendum, issue a certificate of review to the county clerk and prepare the ballot title and short title.

(5) An action brought pursuant to section 34-1809, *Idaho Code*, challenging the ballot title or short title shall be brought in the district court of the county.

(6) To be eligible to sign a petition for county initiative or referendum, a person shall be a qualified elector of the county at the time of signing the petition.

(7) To perfect a petition for county 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 county election in November of an even-numbered year.

(8) The provisions of section 34-1805, *Idaho Code*, relating to the number of required signatures and geographic distribution of signatures shall not apply to a county initiative or referendum.

(9) Any person who circulates a petition for county 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 his belief that each signer of the petition is a qualified elector of the state of Idaho and the county.

(10) A copy of all petitions and signature sheets shall be kept by the county clerk as a public record.

(11) The prospective petition for referendum, as provided by section 34-1804, *Idaho Code*, shall be filed no more than sixty (60) days following publication of the adopted ordinance as provided by section 31-715, *Idaho Code*.

(12) Petitioners must submit the signed initiative or referendum petitions to the county clerk for verification no later than one hundred eighty (180) days after the petitioners receive the official ballot title from the county clerk,

## IDAHO ELECTION LAWS

or one hundred eighty (180) days before the election at which the initiative or referendum is to be voted on, whichever is earlier.

(13) The county clerk has sixty (60) calendar days to verify the signatures as provided in section 34-1802(3), *Idaho Code*.

(14) The board of county commissioners shall have the option to adopt the ordinance proposed by 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 board of county commissioners shall hold a public hearing on the proposed ordinance within the thirty (30) day period, preceded by legal notice published once in the county at least seven (7) days preceding the hearing. If the ordinance is not adopted by the board of county commissioners by the end of the thirty (30) day period, the initiative shall be put on the ballot.

(15) As provided by sections 34-1812A through 34-1812C, *Idaho Code*, a voters' pamphlet shall be prepared by the county clerk.

(16) To be passed into law, an initiative or referendum shall be approved by a majority of the votes cast on the measure.

(17) The board of county commissioners shall issue the proclamation provided by section 34-1813, *Idaho Code*.

(18) The county clerk shall publish an ordinance adopted by initiative or referendum within thirty (30) days after the proclamation by the board of county commissioners provided in subsection (17) of this section.

(19) All county ordinances setting forth initiative or referendum procedures are void on July 1, 2018.

(20) This section does not apply to bond elections.

(21) This section does not apply to zoning legislation including, but not limited to, ordinances required or authorized pursuant to chapter 65, title 67, *Idaho Code*.

**History:** [S.L. 2018, Ch. 238]

**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 both the fiscal impact statement and 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.

## IDAHO ELECTION LAWS

(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; am. 1997, Ch. 266; am. 2011, Ch. 285; am. 2020, Ch. 317]

**34-1803. REFERENDUM PETITIONS—TIME FOR FILING—WHEN ELECTION HELD—EFFECTIVE DATE OF LAW.** Referendum petitions with the requisite number of signatures attached, as verified by county clerks pursuant to section 34-1807, *Idaho Code*, 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 that 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; am. 2021, ch. 262]

**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 in writing or submitting electronically 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.

(3) Each signature page of an initiative or referendum petition shall state that any person signing a petition may remove his signature pursuant to this section.

**History:** [S.L. 1997, Ch. 266; am. 2020, Ch. 336]

**34-1804. INITIAL FILING OF BALLOT MEASURE—PRINTING OF PETITION AND SIGNATURE SHEETS—PROPOSED FUNDING AND FISCAL INFORMATION.** (1) 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

## IDAHO ELECTION LAWS

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*.

(2) In the case of an initiative petition, the person or persons or organization or organizations under whose authority the measure is to be initiated shall propose a funding source for the cost of implementing the measure. The proposed funding source information shall accompany a copy of the initiative when the petition is initially filed with the secretary of state under subsection (1) of this section, and whenever the petition is circulated for signatures, but the proposed funding source information shall not formally be part of the initiative and shall have no binding effect. Upon receipt of the petition and the proposed funding source information, the secretary of state shall immediately transmit a copy of the petition and proposed funding source information to the division of financial management so that it may issue a statement of fiscal impact as provided in section 34-1812, *Idaho Code*. The provisions of this subsection shall not apply to a city or county ballot initiative.

(3) 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 full and correct copy of the measure so proposed by initiative petition and a copy of the fiscal impact statement summary for the initiative, if applicable; 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; am. 1988, Ch. 48; am. 2013, Ch. 214; am. 2013, Ch. 336; am. 2020, Ch. 317]

**34-1805. SPONSORS TO PRINT PETITION—NUMBER OF SIGNERS REQUIRED.** (1) After the form of the initiative or referendum petition has been approved by the secretary of state as provided in sections 34-1801A through 34-1822, *Idaho Code*, 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.

(2) 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 percent (6%) of the qualified electors at the time of the last general election in each of the thirty-five (35) legislative districts.

**History:** [S.L. 1933, Ch. 210; am. 1997, Ch. 266; am. 2007, Ch. 202; am. 2013, Ch. 214; am. 2021, ch. 255]

## IDAHO ELECTION LAWS

**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; am. 1988, Ch. 48]

**34-1807. CIRCULATION OF PETITIONS—VERIFICATION OF PETITION AND SIGNATURE SHEETS—COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND RECORDS—CERTAIN PETITIONS AND SIGNATURES VOID.** (1) 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:

State of Idaho )

) ss.

County of )

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 \_\_\_\_\_.

Signed \_\_\_\_\_

Post office address \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Public

Residing at \_\_\_\_\_

## IDAHO ELECTION LAWS

(2) In addition to said affidavit, the county clerk shall carefully examine said petitions and strike from the petition any names for which he has determined that the name, address, or signature do not match those of a qualified elector of the proper jurisdiction. The county clerk shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho            )  
                                  ) ss.

County of                )

To the honorable \_\_\_\_\_, Secretary of State for the State of Idaho: I, \_\_\_\_\_, County Clerk of \_\_\_\_\_, County, hereby certify that \_\_\_\_\_ signatures on this petition are those of qualified electors in legislative district number \_\_\_\_\_.

Signed \_\_\_\_\_

County Clerk or Deputy.

(Seal of office)

(3) 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.

(4) 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.

(5) Any signature that is not a physical signature, including an electronic signature, is void.

**History:** [S.L. 1933, Ch. 210; am. 1988, Ch. 48; am. 1997, Ch. 266; am. 1999, Ch. 47; am. 2013, Ch. 214; am. 2013, Ch. 336; am. 2021, ch. 262]

**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

## IDAHO ELECTION LAWS

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; am. 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 in this subsection 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.



## IDAHO ELECTION LAWS

(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 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 or electronic transmission 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.

(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:** [34-1809, added 1933, Ch. 210, sec. 9, p. 431; am. 1979, Ch. 106, sec. 1, p. 340; am. 1988, Ch. 48, sec. 6, p. 70; am. 1994, Ch. 400, sec. 1, p. 1263; am. 1997, Ch. 266, sec. 7, p. 760; am. 2003, Ch. 147, sec. 1, p. 423; am. 2019, Ch. 96, sec. 16, p. 353]

**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.



## IDAHO ELECTION LAWS

(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; am. 1988, Ch. 48; am. 2003, Ch. 147]

**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]

**34-1812. FISCAL IMPACT STATEMENTS.** (1) (1) After receiving a copy of an initiative petition from the secretary of state as provided in section 34-1804, *Idaho Code*, the division of financial management, in consultation with any other appropriate state or local agency, shall prepare an unbiased, good faith statement of the fiscal impact of the law proposed by the initiative. The division of financial management shall complete the fiscal impact statement and file it with the secretary of state’s office within twenty (20) working days of having received the initiative petition from the secretary of state’s office. The secretary of state shall immediately transmit a copy of the fiscal impact statement to the person or persons who filed the initiative petition pursuant to section 34-1804, *Idaho Code*.

(2) A fiscal impact statement shall describe any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state or local governments will experience if the ballot measure is approved by the voters. The fiscal impact statement shall include both immediate expected fiscal impacts and an estimate of any state or local government long-term financial implications. A fiscal impact statement must be written in clear and concise language and shall avoid legal and technical terms whenever possible. Where appropriate, a fiscal impact statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context.

## IDAHO ELECTION LAWS

(3) A fiscal impact statement must include both a summary of the fiscal impact statement, not to exceed one hundred (100) words, and a more detailed statement of fiscal impact that includes the assumptions that were made to develop the fiscal impact. When collecting signatures, a signature gatherer shall offer a copy of the fiscal impact statement summary, along with a copy of the initiative and the sponsor's proposed funding source information, to the elector for review before signing. The fiscal impact statement summary and the sponsor's proposed funding source information shall also be published in the state voters' pamphlet and on the official ballot. The fiscal impact statement summary, the detailed fiscal impact statement, and the sponsor's proposed funding source information shall be made available to the public on the secretary of state's website no later than August 1.

(4) The provisions of this section shall not apply to a city or county ballot initiative.

**History:** [S.L. 2020, Ch. 317]

**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]

**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]

## IDAHO ELECTION LAWS

**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 fiscal impact statement summary for a state measure;
- (c) A copy of the sponsor's proposed funding source information for a state measure; and
- (c) 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 that, in the judgment of the secretary of state, best serves the voters;
- (d) If the material described in subsection (1) 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; am. 1984, Ch. 114; am. 2020, Ch. 317]

**34-1813. COUNTING, CANVASSING, AND RETURN OF VOTES—EFFECTIVE DATES.** (1) 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 for any referendum measure. The effective date for an initiative measure shall be governed by the provisions

## IDAHO ELECTION LAWS

of subsection (2) of this section. 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 through 34-1822, *Idaho Code*.

(2)(a) A statewide initiative may contain an effective date, if passed, that shall be no earlier than July 1 of the year following the vote on the ballot initiative. If no effective date is specified in the petition, the effective date of a statewide initiative that has been approved by the electorate shall be July 1 of the following year.

(b) A city or county initiative may contain an effective date, if passed, that may be earlier than July 1 of the year following the vote on the ballot initiative, but no earlier than the mayor's proclamation as provided in section 34-1801B, *Idaho Code*, or the proclamation by the board of county commissioners, as provided in section 34-1801C, *Idaho Code*. If no effective date is specified in the petition, the effective date of a city or county initiative that has been approved by the electorate shall be July 1 of the following year.

**History:** [S.L. 1933, Ch. 210; am. 2020, Ch. 336]

**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; am. 1997, Ch. 266]

**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

## IDAHO ELECTION LAWS

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; am. 1997, Ch. 266]

### **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:

## IDAHO ELECTION LAWS

(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: Number of Congressional Districts

**34-1901. NUMBER OF CONGRESSIONAL DISTRICTS.** For the election of representatives in Congress, the state of Idaho is divided into two (2) congressional districts.

**History:** [(34-1901) 1917, Ch. 121, sec. 1, p. 408; compiled and reen. C.L. 6:1; C.S., sec. 66; I.C.A., sec. 33-1601]

**34-1902–34-1903. [REPEALED: S.L. 1970, Ch. 140]**

Sections 34-1901 through 34-1903 have been superceded and replaced by the Commission on Reapportionment as authorized by Article 3, Section 2, Idaho Constitution.

## 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.

## IDAHO ELECTION LAWS

(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, sec. 132; reen. 1899, p. 33, sec. 119; reen. R.C. & C.L., sec. 5026; C.S., sec. 7274; I.C.A., sec. 33-1701; am. 1982, Ch. 209]

**34-2001A. BOND ELECTION AND MILL LEVY CONTESTS—TIME FOR FILING—VALIDATION OF ELECTIONS AND BONDS.** (1) 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 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 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.

(2) When the validity of any bond or levy election is contested on any of the grounds enumerated in section 34-2001, *Idaho Code*, on the grounds of a failure to comply with the requirements of section 34-913 or 34-914, *Idaho Code*, or on 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:

(a) The name of the party contesting the bond or levy election, and that he is an elector of the public entity conducting the bond or levy election;

(b) The proposition or propositions voted on at the election that are contested; and

(c) The particular grounds of such contest.

(3) No such election contest shall be maintained and no bond or levy election shall be set aside or held invalid unless a complaint is filed as permitted under this section within the period prescribed in this section.

(4) 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



## IDAHO ELECTION LAWS

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., sec. 34-2001A, as added by 1969, Ch. 208; am. 1976, Ch. 291; am. 2021, ch. 288]

**34-2002. TERM INCUMBENT DEFINED.** The term “**incumbent**” in this chapter means the person whom the canvassers declare elected.

**History:** [1890-1891, p. 57, sec. 133; reen. 1899, p. 33, sec. 120; reen. R.C. & C.L., sec. 5027; C.S., sec. 7275; I.C.A., sec. 33-1702]

**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, sec. 134; reen. 1899, p. 33, sec. 121; reen. R.C. & C.L., sec. 5028; C.S., sec. 7276; I.C.A., sec. 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, sec. 137; am. 1899, p. 33, sec. 124; reen. R.C. & C.L., sec. 5029; C.S., sec. 7277; I.C.A., sec. 33-1704; am. 1982, Ch. 209]

**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, sec. 138; reen. 1899, p. 33, sec. 125; reen. R.C. & C.L., sec. 5030; C.S., sec. 7278; I.C.A., sec. 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, sec. 139; reen. 1899, p. 33, sec. 126; reen. R.C. & C.L., sec. 5031; C.S., sec. 7279; I.C.A., sec. 33-1706]



## IDAHO ELECTION LAWS

**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, sec. 148; reen. 1899, p. 33, sec. 135; reen. R.C. & C.L., sec. 5032; C.S., sec. 7280; I.C.A., sec. 33-1707]

**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, sec. 149; reen. 1899, p. 33, sec. 136; reen. R.C. & C.L., sec. 5033; C.S., sec. 7281; I.C.A., sec. 33-1708]

**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, sec. 150; reen. 1899, p. 33, sec. 137; reen. R.C. & C.L., sec. 5034; C.S., sec. 7282; I.C.A., sec. 33-1709]

**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, sec. 151; reen. 1899, p. 33, sec. 138; reen. R.C. & C.L., sec. 5035; C.S., sec. 7283; I.C.A., sec. 33-1710; am. 1982, Ch. 209]

**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, sec. 152; reen. 1899, p. 33, sec. 139; reen. R.C. & C.L., sec. 5036; C.S., sec. 7284; I.C.A., sec. 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, sec. 153; reen. 1899, p. 33, sec. 140; reen. R.C. & C.L., sec. 5037; C.S., sec. 7285; I.C.A., sec. 33-1712]

## IDAHO ELECTION LAWS

**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, sec. 154; reen. 1899, p. 33, sec. 141; reen. R.C. & C.L., sec. 5038; C.S., sec. 7286; I.C.A., sec. 33-1713; am. 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, sec. 155; reen. 1899, p. 33, sec. 142; reen. R.C. & C.L., sec. 5039; C.S., sec. 7287; I.C.A., 33-1714; am. 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, sec. 156; reen. 1899, p. 33, sec. 143; reen. R.C. & C.L., sec. 5040; C.S., sec. 7288; I.C.A., sec. 33-1715]

**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, sec. 157; reen. 1899, p. 33, sec. 144; reen. R.C. & C.L., sec. 5041; C.S., sec. 7289; I.C.A., sec. 33-1716]

**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

## IDAHO ELECTION LAWS

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, sec. 158; reen. 1899, p. 33, sec. 145; reen. R.C. & C.L., sec. 5042; C.S., sec. 7290; I.C.A., sec. 33-1717; am. 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, sec. 159; reen. 1899, p. 33, sec. 146; reen. R.C. & C.L., sec. 5043; C.S., sec. 7291; I.C.A., sec. 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, sec. 160; reen. 1899, p. 33, sec. 147; reen. R.C. & C.L., sec. 5044; C.S., sec. 7292; I.C.A., sec. 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, sec. 161; reen. 1899, p. 33, sec. 148; reen. R.C. & C.L., sec. 5045; C.S., sec. 7293; I.C.A., sec. 33-1720; am. 1982, Ch. 209]

**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, sec. 162; reen. 1899, p. 33, sec. 149; reen. R.C. & C.L., sec. 5046; C.S., sec. 7294; I.C.A., sec. 33-1721; am. 1982, Ch. 209]

## IDAHO ELECTION LAWS

**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, sec. 163; reen. 1899, p. 33, sec. 150; reen. R.C. & C.L., sec. 5047; C.S., sec. 7295; I.C.A., sec. 33-1722]

**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, sec. 164; reen. 1899, p. 33, sec. 151; reen. R.C. & C.L., sec. 5048; C.S., sec. 7296; I.C.A., sec. 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, sec. 165; reen. 1899, p. 33, sec. 152; reen. R.C. & C.L., sec. 5049; C.S., sec. 7297; I.C.A., sec. 33-1724]

**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, sec. 166; reen 1899, p. 33, sec. 153; reen R.C. & C.L., sec. 5050; C.S., sec. 7298; I.C.A., sec. 33-1725; am. 1982, Ch. 209]

## IDAHO ELECTION LAWS

**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, sec. 167; reen. 1899, p. 33, sec. 154; reen. R.C. & C.L., sec. 5051; C.S., sec. 7299; I.C.A., sec. 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, sec. 168; reen. 1899, p. 33, sec. 155; reen. R.C. & C.L., sec. 5052; C.S., sec. 7300; I.C.A., sec. 33-1727]

**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]

**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]

**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]

## IDAHO ELECTION LAWS

**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]

**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]

## 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*.

## IDAHO ELECTION LAWS

(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 representatives 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]

**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;



## IDAHO ELECTION LAWS

(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;

(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]

**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 representatives 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 sections 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 purposes of this chapter.

**History:** [S.L. 2017, Ch. 293]



## IDAHO ELECTION LAWS

**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 written 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 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.

## IDAHO ELECTION LAWS

(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*.

(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 subsections (1) and (2) of this section.

**History:** [S.L. 2017, Ch. 293]

**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]

## IDAHO ELECTION LAWS

**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 subpoenas 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.

(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 a 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 THE 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]

## IDAHO ELECTION LAWS

**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 a 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 contests 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]

## IDAHO ELECTION LAWS

### **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 representatives 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]

**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]

**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 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.

## IDAHO ELECTION LAWS

(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]

**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]

**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 (\$1,000) 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]

## IDAHO ELECTION LAWS

**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*.

(b) Upon a final decision and award of costs, fees or attorney's fees against the contestor, and if the costs, fees and 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]

**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 the grounds as set out in this chapter.

**History:** [S.L. 2017, Ch. 293]

**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]

## IDAHO ELECTION LAWS

**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]

**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 (\$1,000) 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]

**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]

**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]

**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 ten (10) days after the receipt of an 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]

**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]



## IDAHO ELECTION LAWS

### 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; am. 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).

## IDAHO ELECTION LAWS

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) \_\_\_\_\_

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 )

) ss.

County of )

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.

## IDAHO ELECTION LAWS

(Signed) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for the State of Idaho;

residence \_\_\_\_\_

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; am. 2007, Ch. 90]

**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:

IDAHO ELECTION LAWS

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
<div><div></div><div></div></div>	<div><div></div><div></div></div>
<div><div><input type="checkbox"/></div><div>John Doe</div></div>	<div><div><input type="checkbox"/></div><div>Charles Coe</div></div>
<div><div><input type="checkbox"/></div><div>Richard Roe</div></div>	<div><div><input type="checkbox"/></div><div>Michael Moe</div></div>
<div><div><input type="checkbox"/></div><div></div></div>	<div><div><input type="checkbox"/></div><div></div></div>

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]

## IDAHO ELECTION LAWS

**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]

**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

## IDAHO ELECTION LAWS

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; am. 1985, Ch. 41; am. 2009, Ch. 341; am. 2011, Ch. 285]

**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; am. 2011, Ch. 285]

## IDAHO ELECTION LAWS

### **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; am. 2011, Ch. 285]

**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; am. 1985, Ch. 41; am. 2011, Ch. 285]

**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; am. 1985, Ch. 41; am. 2011, Ch. 285; am. 2012, Ch. 211]

**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,

## IDAHO ELECTION LAWS

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; am. 1985, Ch. 41; am. 2011, Ch. 285]

**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; am. 1985, Ch. 41; am. 2011, Ch. 285; am. 2012, Ch. 211]

**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.



## IDAHO ELECTION LAWS

(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; am. 1985, Ch. 41; am. 2004, Ch. 48; am. 2011, Ch. 285]

**34-2309. FREE RECOUNT.** A losing candidate for nomination, or election 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 appropriate officer 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. 1985, Ch. 41; am. 1986, Ch. 97; am. 2011, Ch. 285; am. 2015, Ch. 282; am. 2015, Ch. 287]

**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]

**34-2313. 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.

## IDAHO ELECTION LAWS

(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]

### 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; am. 1974, Ch. 3; am. 2001, Ch. 272; am. 2003, Ch. 48]

## IDAHO ELECTION LAWS

**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]

**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; am. 1972, Ch. 129]

## IDAHO ELECTION LAWS

### **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]

### **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]

### **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]

**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

## IDAHO ELECTION LAWS

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; am. 2001, Ch. 272; am. 2005, Ch. 282; am. 2007, Ch. 202; am. 2012, Ch. 179]

## IDAHO ELECTION LAWS

**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.
  - (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]

## IDAHO ELECTION LAWS

**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]

**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 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; am. 1974, Ch. 75; am. 1989, Ch. 346; am. 2012, Ch. 211]

**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; am. 2012, Ch. 211]



## IDAHO ELECTION LAWS

**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]

**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]

**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.



## IDAHO ELECTION LAWS

(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]

**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]

**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; am. 1994, Ch. 54]

## IDAHO ELECTION LAWS

**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]

**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]

**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; am. 1971, Ch. 5]

**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]

## IDAHO ELECTION LAWS

### **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; am. 1976, Ch. 73]

**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; am. 2012, Ch. 211]

### **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]

## IDAHO ELECTION LAWS

**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.

(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]

**34-2427. VOTERS WITH PHYSICAL OR OTHER DISABILITY.** (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 or other disability 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 or other disability, 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; am. 1972, Ch. 129; am. 2010, Ch. 235; am. 2015, Ch. 282]

## IDAHO ELECTION LAWS

**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]**

**34-2431–34-2446. [REPEALED: S.L. 1970, Ch. 140]**

### **Chapter 25: Election Campaign Fund [REPEALED]**

**34-2501–34-2505. [REPEALED: S.L. 2010, Ch. 3]**



# **Title 1**

## **Courts and Court Officials**





# Title 1: Courts and Court Officials (excerpt)

## Chapter 22: Magistrate Division of the District Court

### 1-2203A. DISTRICT MAGISTRATES COMMISSION — TERMS. (1)

Except as otherwise provided in this subsection, the mayors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to hold the office that entitles them to membership on the commission. The terms of all mayors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a mayor to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

- (a) Mayor A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of mayor A shall end on September 30 in years that end in two (2) or seven (7);
- (b) Mayor B, the initial term shall be three (3) years, ending September 30, 2024, and thereafter the term of mayor B shall end on September 30 in years that end in four (4) or nine (9); and
- (c) Mayor C, the initial term shall be five (5) years, ending September 30, 2026, and thereafter the term of mayor C shall end on September 30 in years that end in one (1) or six (6).

(2) Except as otherwise provided in this subsection, the qualified electors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to reside in the district. The terms of all qualified electors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a qualified elector to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

- (a) Elector A, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of elector A shall end on September 30 in years that end in three (3) or eight (8); and
- (b) Elector B, the initial term shall be four (4) years, ending September 30, 2025, and thereafter the term of elector B shall end on September 30 in years that end in zero (0) or five (5).

(3) Except as otherwise provided in this subsection, attorneys shall serve for a term of two (2) years and may succeed themselves for two (2) additional terms. The terms of all attorneys on a magistrates commission on September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint an attorney to an applicable designated position on the commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to:

- (a) Attorney A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of attorney A shall end on September 30 in even-numbered years; and

## COURTS AND COURT OFFICIALS

(b) Attorney B, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of attorney B shall end on September 30 in odd-numbered years.

(4) Except as otherwise provided in this subsection, the magistrate judge shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all magistrate judges serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a magistrate judge to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, the term of the magistrate judge shall end on September 30 in odd-numbered years.

(5) Except as otherwise provided in this subsection, the county clerk shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all county clerks serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a county clerk to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to the county clerk, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of the county clerk shall end on September 30 in even-numbered years.

**History:** [S.L. 2021, ch. 85]

**1-2203B. DISTRICT MAGISTRATES COMMISSION — VACANCIES — TEMPORARY VACANCIES — TEMPORARY MEMBERS.** (1) A vacancy on the commission shall be caused by a voting member dying, resigning, moving his residence outside the district, moving his residence to another county, and, in the case of a mayor, magistrate judge, district judge, county clerk, or county commissioner member, losing his status as such official for any reason; provided, however, that except in the case of death or resignation of a member, the member who is not otherwise disqualified by law from continuing to serve shall continue to serve until a successor is duly appointed and qualified.

(2) In the case of an attorney member, a vacancy on the commission shall also be caused by being suspended or disbarred from the practice of law.

(3) Appointments to fill all vacancies, including temporary vacancies, shall be made by the initial appointing authority for the unexpired term or for the period of any temporary vacancy.

(4) A temporary vacancy on the commission shall be caused by an attorney member currently practicing law in the same firm as an applicant seeking a magistrate judge's position in the commission's judicial district or by an attorney member or a magistrate judge member having been engaged in the practice of law as a partner of such applicant within the last five (5) years.

(5) A temporary vacancy on the commission for the county clerk member shall occur if the magistrate judge position being filled or the removal process of a magistrate judge is in the county clerk's county.

(6) Temporary attorney members may be nominated in such number as the bar association in each district deems appropriate at any time by the

## COURTS AND COURT OFFICIALS

respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrates commission.

(7) It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chairman and secretary of the commission. It shall be the duty of the chairman or secretary promptly to report in writing to the appropriate appointing authority the existence of any vacancy on the commission.

**History:** [S.L. 2021, ch. 85]

**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; am. 1973, Ch. 78; am. 1977, Ch. 233; am. 1980, Ch. 393; am. 1981, Ch. 111; am. 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;

## COURTS AND COURT OFFICIALS

(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, within one (1) year of taking office for the first time as magistrates, attend 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; am. 1979, Ch. 149; am. 1982, Ch. 217; am. 1982, Ch. 298; am. 2015, Ch. 310; am. 2019, Ch. 185.]

**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; am. 1973, Ch. 78; am. 1974, Ch. 116; am. 1977, Ch. 233; am. 1979, Ch. 149; am. 1990, Ch. 71]

## COURTS AND COURT OFFICIALS

### 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 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; am. 1974, Ch. 116; am. 1977, Ch. 233; am. 1979, Ch. 149; am. 2003, Ch. 55]

## Chapter 24: Court of Appeals

**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:

## COURTS AND COURT OFFICIALS

- (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) 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.

## COURTS AND COURT OFFICIALS

(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, 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; am. 1981, Ch. 271; am. 1985, Ch. 29; am. 1998, Ch. 126; am. 2008, Ch. 24; am. 2014, Ch. 291; am. 2015, Ch. 310]





# **Title 18**

## **Crimes and Punishments**



## 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) Domestic battery, felony (18-918, *Idaho Code*);
- (g) Enticing of children, felony (18-1509, *Idaho Code*);
- (h) Forcible sexual penetration by use of a foreign object (18-6604, *Idaho Code*);
- (i) Indecent exposure, felony (18-4116, *Idaho Code*);
- (j) Injury to child, felony (18-1501, *Idaho Code*);
- (k) Intimidating a witness, felony (18-2604, *Idaho Code*);
- (l) Lewd conduct with a minor or child under sixteen (18-1508, *Idaho Code*);
- (m) Sexual abuse of a child under sixteen (18-1506, *Idaho Code*);
- (n) Sexual exploitation of a child (18-1507, *Idaho Code*);
- (o) Felonious rescuing prisoners (18-2501, *Idaho Code*);
- (p) Escape by one charged with, convicted of or on probation for a felony (18-2505, *Idaho Code*);
- (q) Unlawful possession of a firearm (18-3316, *Idaho Code*);
- (r) Degrees of murder (18-4003, *Idaho Code*);
- (s) Voluntary manslaughter (18-4006(1), *Idaho Code*);

## CRIMES AND PUNISHMENTS

- (t) Assault with intent to murder (18-4015, Idaho Code);
- (u) Administering poison with intent to kill (18-4014, Idaho Code);
- (v) Kidnapping (18-4501, Idaho Code);
- (w) Mayhem (18-5001, Idaho Code);
- (x) Rape (18-6101, Idaho Code);
- (y) Robbery (18-6501, Idaho Code);
- (z) Ritualized abuse of a child (18-1506A, Idaho Code);
- (aa) Cannibalism (18-5003, Idaho Code);
- (bb) Felonious manufacture, delivery or possession with the intent to manufacture or deliver, or possession of a controlled or counterfeit substance (37-2732, Idaho Code);
- (cc) Trafficking (37-2732B, Idaho Code);
- (dd) Threats against state officials of the executive, legislative or judicial branch, felony (18-1353A, Idaho Code);
- (ee) Unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home (18-3317, Idaho Code);
- (ff) Unlawful possession of destructive devices (18-3319, Idaho Code);
- (gg) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- (hh) 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 (gg) of this subsection.
- (ii) The provisions of this subsection shall apply only to those persons convicted of the enumerated felonies in paragraphs (a) through (hh) of this subsection on or after July 1, 1991, except that persons convicted of the felonies enumerated in paragraphs (r) and (s) 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 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.

## CRIMES AND PUNISHMENTS

(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; am. 1981, Ch. 182; am. 1982, Ch. 368; am. 1991, Ch. 202; am. 1993, Ch. 120; am. 1993, Ch. 184; am. 1998, Ch. 171; am. 2003, Ch. 113; am. 2003, Ch. 253; am. 2004, Ch. 166; am. 2016, Ch. 296]

### Chapter 23: Elections

**18-2301. OFFICIAL NEGLIGENCE 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]

## CRIMES AND PUNISHMENTS

**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]

## CRIMES AND PUNISHMENTS

**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 (\$1,000).

**History:** [S.L. 1972, Ch. 336; am. 2006, Ch. 71]

**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]

## CRIMES AND PUNISHMENTS

### **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; am. 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]



## CRIMES AND PUNISHMENTS

**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, willfully 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).

**History:** [S.L. 1972, Ch. 336; am. 2006, Ch. 71]

**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, or 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; am. 1997, Ch. 360; am. 2006, Ch. 71; am. 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]

## CRIMES AND PUNISHMENTS

**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 wilfully 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 any one 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; am. 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]

## CRIMES AND PUNISHMENTS

### Chapter 70: Trespass and Malicious Injury to Property

**18-7029. PLACING POSTERS OR PROMOTIONAL MATERIAL ON PUBLIC OR PRIVATE PROPERTY WITHOUT PERMISSION.** It shall be unlawful for any person to erect, install, attach or paint, or cause to be erected, installed, attached or painted, election posters or signs upon public or private property, real or personal, in the state of Idaho, without permission from the owner or occupant of such property, and it shall be unlawful for any person to place or leave any literature or other political, promotional or sales materials upon public or private property, real or personal, in the state of Idaho when the owner or occupant of such property, by a sign conspicuously posted on the property, or by other written or audio communication to such person, has forbidden the placing or leaving of literature or other political, promotional or sales material upon that property. Provided, however, that the granting of such permission by any public utility company on behalf of any candidate for public office shall constitute the granting of like permission by such public utility company to all other candidates for the same public office. Any violation of this section shall be a misdemeanor.

**History:** (S.L. 1972, Ch. 336; am. 1994, Ch. 167)



**Title 67, Chapter 66**  
**The Sunshine Law**  
**For Political Funds and**  
**Lobbyist Activity Disclosure**



## Title 67: State Government and State Affairs

### Chapter 66: Election Campaign Contributions and Expenditures—Lobbyists

**67-6601. PURPOSE OF CHAPTER.** The purpose of this chapter is:

- (1) To promote public confidence in government; and
- (2) To promote openness in government and to promote transparency by those giving financial support to election campaigns and those promoting or opposing legislation or attempting to influence executive or administrative actions for compensation.

**History:** [Init. Measure 1974, No. 1; am. 2006, ch. 106; am. 2019, ch. 288]

**67-6602. DEFINITIONS.** As used in this chapter, the following terms have the following meanings:

(1) **“Candidate”** means an individual who seeks nomination, election, or reelection to public office and who has taken any of the following actions:

- (a) Announced the individual’s candidacy publicly;
- (b) Filed for public office;
- (c) Received a contribution for the purpose of promoting the individual’s candidacy for office; or
- (d) Made an expenditure, contracted for services, or reserved space with the intent of promoting the individual’s candidacy for office.

For purposes of this chapter, an incumbent shall be presumed to be a candidate in the subsequent election for his or her office until the incumbent has failed to file a declaration of candidacy by the statutory deadline.

(2) **“Compensation”** includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to do any of the foregoing, for services rendered or to be rendered, but does not include reimbursement of expenses if such reimbursement does not exceed the amount actually expended for such expenses and is substantiated by an itemization of such expenses.

(3) **“Contractor”** means a person who receives compensation from another person for either full-time or part-time work based on a contract or compensation agreement, but who is not an employee of that person.

(4) **“Contribution”** includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of **“part-time”** personal

## THE SUNSHINE LAW

services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five dollars (\$25.00) personally paid for by any volunteer campaign worker. **“Part-time”** services, for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalent shall be deemed to have a money value equivalent to the fair market value of the contribution.

(5) **“Election”** means any state or local general, special, recall, or primary election.

(6) **“Election campaign”** means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a measure.

(7)(a) **“Electioneering communication”** means any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, or telephone calls made to personal residences, or otherwise distributed that:

- (i) Unambiguously refers to any candidate; and
- (ii) Is broadcasted, printed, mailed, delivered, made or distributed within thirty (30) days before a primary election or sixty (60) days before a general election; and
- (iii) Is broadcasted to, printed in a newspaper, distributed to, mailed to or delivered by hand to, telephone calls made to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(b) **“Electioneering communication”** does not include:

- (i) Any news articles, editorial endorsements, opinion or commentary, writings, or letter to the editor printed in a newspaper, magazine, or other periodical not owned or controlled by a candidate, political committee, or political party;
- (ii) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- (iii) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;
- (iv) Any communication that refers to any candidate only as part of the popular name of a bill or statute;
- (v) A communication that constitutes an expenditure or an independent expenditure under this chapter.

(8) **“Employee”** means an individual who performs a service for wages or other compensation from which the individual’s employer withholds federal employment taxes under a contract for hire, written or oral.



## THE SUNSHINE LAW

(9) “**Executive official**” means:

(a) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general, superintendent of public instruction and any deputy or staff member of any of those individuals who, within the course and scope of his or her employment, is directly involved in major policy-influencing decisions for the office;

(b) A state department or agency director, deputy director, division administrator or bureau chief as established and enumerated in sections 67-2402 and 67-2406, *Idaho Code*;

(c) The membership and the executive or chief administrative officer of any board or commission that is authorized to make rules or conduct rulemaking activities pursuant to section 67-5201, *Idaho Code*;

(d) The membership and the executive or chief administrative officer of any board or commission that governs any of the state departments enumerated in section 67-2402, *Idaho Code*, not including public school districts;

(e) The membership and the executive or chief administrative officer of the Idaho public utilities commission, the Idaho industrial commission, and the Idaho state tax commission; and

(f) The members of the governing board of the state insurance fund and the members of the governing board and the executive or chief administrative officer of the Idaho housing and finance association, the Idaho energy resources authority, and the Idaho state building authority.

(10) “**Expenditure**” includes any payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term “**expenditure**” also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

(11) “**Independent expenditure**” means any expenditure by a person for a communication expressly advocating the election, passage or defeat of a clearly identified candidate or measure that is not made with the cooperation or with the prior consent of, or in consultation with, or at the consent of, or in consultation with, or at the request of a suggestion of, a candidate or any agent or authorized committee of the candidate or political committee supporting or opposing a measure. As used in this subsection, “**expressly advocating**” means any communication containing a message advocating election, passage or defeat including, but not limited to, the name of the candidate or measure, or expression such as “**vote for**,” “**elect**,” “**support**,” “**cast your ballot for**,” “**vote against**,” “**defeat**” or “**reject**.”

(12) “**Lobby**” and “**lobbying**” each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees or an executive official to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof or by the governor or to develop or maintain

## THE SUNSHINE LAW

relationships with, promote goodwill with, or entertain members of the legislature or executive officials. “**Lobby**” and “**lobbying**” shall also mean communicating with an executive official for the purpose of influencing the consideration, amendment, adoption or rejection of any rule or rulemaking as defined in section 67-5201, *Idaho Code*, or any ratemaking decision, procurement, contract, bid or bid process, financial services agreement, or bond issue. Neither “**lobby**” nor “**lobbying**” includes an association’s or other organization’s act of communicating with the members of that association or organization; and provided that neither “**lobby**” nor “**lobbying**” includes communicating with an executive official for the purpose of carrying out ongoing negotiations following the award of a bid or a contract, communications involving ongoing legal work and negotiations conducted by and with attorneys for executive agencies, interactions between parties in litigation or other contested matters, or communications among and between members of the legislature and executive officials and their employees, or by state employees while acting in their official capacity or within the course and scope of their employment.

(13) “**Lobbyist**” includes any person who lobbies.

(14) “**Lobbyist’s client**” means the person on whose behalf the lobbyist is acting, directly or indirectly, as a contractor, and by whom the lobbyist or lobbyist’s employer is compensated for acting as a lobbyist.

(15) “**Lobbyist’s employer**” means the person or persons for whom a lobbyist is an employee, and by whom the lobbyist is compensated for acting as a lobbyist.

(16) “**Local government office**” means any publicly elected office for any political subdivision of the state or special district that is not a legislative, judicial, statewide, or federal office.

(17) “**Measure**” means any proposal submitted to the people for their approval or rejection at an election, including any initiative, referendum, recall election, or revision of or amendment to the state constitution. An initiative or referendum proposal shall be deemed a measure when the attorney general, county prosecutor, or city attorney, as appropriate, reviews it and gives it a ballot title. A recall shall be deemed a measure upon approval of the recall petition as to form pursuant to section 34-1704, *Idaho Code*.

(18) “**Nonbusiness entity**” means any group of two (2) or more individuals, a corporation, association, firm, partnership, committee, club or other organization that:

(a) Does not have as its principal purpose the conduct of business activities for profit; and

(b) Received during the preceding or current calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten percent (10%) of its total receipts for such year.

(19) “**Person**” means an individual, corporation, association, firm, partnership, committee, political party, club or other organization or group of persons.

## THE SUNSHINE LAW

(20) “**Political committee**” means:

(a) Any person specifically designated to support or oppose any candidate or measure; or

(b) Any person who receives contributions and makes expenditures in an amount exceeding one thousand dollars (\$1,000) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(c) A county, district or regional committee of a recognized political party shall not be considered a political committee for the purposes of this chapter unless such party committee has expenditures exceeding five thousand dollars (\$5,000) in a calendar year.

(21) “**Political treasurer**” means an individual appointed by a candidate or political committee as provided in section 67-6603, *Idaho Code*.

(22) “**Public office**” means any local, legislative, judicial, or state office or position that is filled by election but does not include the office of precinct committeeman.

**History:** [Init. Measure 1974, No. 1, sec. 2; am. 1977, ch. 180; am. 1978, ch. 58; am. 1986, ch. 218; am. 1992, ch. 196; am. 1993, ch. 189; am. 1994, ch. 5; am. 1994, ch. 379; am. 1997, ch. 393; am. 1999, ch. 176; am. 2001, ch. 291; am. 2004, ch. 277; am. 2005, ch. 254; am. 2006, ch. 106; am. 2008, ch. 306; am. 2012, ch. 162; am. 2015, ch. 284; am. 2019, ch. 288; am. 2019, ch. 290; am 2020, ch. 82]

**67-6603. APPOINTMENT OF POLITICAL TREASURER.** (a) Each candidate and political committee shall appoint a political treasurer and certify the full name and complete address of the political treasurer to the secretary of state. A political treasurer so appointed shall be a registered elector of this state. An individual may be appointed and serve as political treasurer for a candidate and a political committee or two (2) or more candidates or political committees. A candidate may appoint himself his own political treasurer.

(b) A candidate or political committee may remove his or its political treasurer. In case of the death, resignation or removal of his or its political treasurer before compliance with all obligations of a political treasurer under this act, such candidate or political committee shall appoint a successor and certify the name and address of the successor in the manner provided in the case of an original appointment.

(c) No contribution shall be received or expenditure made by or on behalf of a candidate or political committee:

(1) Until the candidate or political committee appoints a political treasurer and certifies the name and address of the political treasurer to the secretary of state or, in the event of a vacancy in the office of political treasurer, has certified the name and address of the successor as provided therein; and

(2) Unless the contribution is received or expenditure made by or through the political treasurer for the candidate or political committee.

**History:** [Init. Measure 1974, No. 1; am. 2015, ch. 244]

## THE SUNSHINE LAW

**67-6604. ACCOUNTS OF POLITICAL TREASURER.** (1) The political treasurer for each candidate or political committee shall keep detailed accounts, current within not more than seven (7) days after the date of receiving the contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a statement filed under this chapter.

(2) Accounts kept by the political treasurer for a candidate or political committee may be inspected before the election to which the accounts refer by the secretary of state, or county clerk for local government offices or measures, or his agent or employee, who is making an investigation pursuant to section 67-6615, *Idaho Code*.

(3) Accounts kept by a political treasurer shall be preserved by him for at least one (1) year after the date of the election to which the accounts refer or at least one (1) year after the date the last statement is filed under section 67-6607, *Idaho Code*, whichever is later.

**History:** [Init. Measure 1974, No. 1; am. 2019, ch. 288]

**67-6605. CONTRIBUTIONS OBTAINED BY A POLITICAL COMMITTEE.** Contributions shall not be obtained for a political committee by use of coercion or physical force, by making a contribution a condition of employment or membership, or by using or threatening to use job discrimination or financial reprisals. A political committee may solicit or obtain contributions from individuals as provided in chapter 26, title 44, *Idaho Code*, or as provided in section 44-2004, *Idaho Code*. A violation of the provisions of this section shall be punished as provided in section 67-6625(2), *Idaho Code*.

**History:** [S.L. 1997, ch. 393; am. 2003, ch. 97; am. 2021, ch. 237]

**67-6606. EXPENDITURES BY NONBUSINESS ENTITY.** (1) Any nonbusiness entity that is not a political committee as defined in section 67-6602, *Idaho Code*, making expenditures in or directed to voters in the state of Idaho in an amount exceeding one thousand dollars (\$1,000) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures shall file a statement with the secretary of state. The statement shall include:

(a) The name and address of the nonbusiness entity and the name and address of its principal officer or directors.

(b) The name and address of each person whose fees, dues, payments or other consideration paid to such nonbusiness entity during either of the prior two (2) calendar years has exceeded five hundred dollars (\$500) or who has paid or has agreed to pay fees, dues, payments or other consideration exceeding five hundred dollars (\$500) to such entity during the current year.

(2) This statement shall be filed within thirty (30) days of when the one thousand dollar (\$1,000) threshold mentioned in subsection (1) of this section is exceeded.

**History:** [S.L. 1994, ch. 379; am. 2015, ch. 284; am. 2019, ch. 288; am. 2019, ch. 290]

## THE SUNSHINE LAW

**67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY CANDIDATES AND POLITICAL COMMITTEES.** (1) Each candidate or the political treasurer for each candidate, and each political committee or the political treasurer of each political committee, shall file with the secretary of state a statement of all contributions received and all expenditures and encumbrances made by or on behalf of the candidate or political committee, according to the schedule provided in this section. The statement shall itemize each contribution received and each expenditure or encumbrance made during the reporting period and shall include the following:

- (a) Under contributions, the statement shall include a list of all the contributions received, including any funds or property of the candidate used to cover expenditures. The statement shall list the full name and complete address of each person who contributed an aggregate amount of more than fifty dollars (\$50.00) and the amount contributed by that person. The statement may list as a single item the total amount of contributions of fifty dollars (\$50.00) or less; and
- (b) Under expenditures, the statement shall include the name and address of each person to whom an expenditure or encumbrance was made in the amount of twenty-five dollars (\$25.00) or more, and the amount, date, and purpose of each such expenditure. Each expenditure or encumbrance in the amount of twenty-five dollars (\$25.00) or more shall be evidenced by an invoice, receipt, or canceled check or an accurate copy thereof. Such evidence shall not be filed with the statement but shall be retained by the committee or candidate for a period of one (1) year after the statement has been filed. The statement may list as a single item the total amount of expenditures and encumbrances of less than twenty-five dollars (\$25.00) without showing the exact amount of or requiring evidence of each such expenditure or encumbrance. Anything of value, other than money, paid for or contributed by any person shall be listed both as an expenditure and as a contribution.

(2) For the first report under this section, the reporting period shall cover the period beginning with the first contribution, expenditure, or encumbrance through the end of the current reporting period. Each candidate and each political committee, or the treasurer for a candidate or political committee or ballot measure, shall file the report described under subsection (1) of this section as follows:

- (a) In the year of the election, a monthly report shall be filed for each month of the year. Each report shall be filed by the tenth day of the month following the month being reported; and
- (b) For the nonelection year, an annual report covering the nonelection year shall be filed by January 10 of the following year.

(3) Notwithstanding any other reports required under this section, each candidate and each political committee, or the political treasurer for each candidate and each political committee, shall notify the secretary of state of any contribution of one thousand dollars (\$1,000) or more. This notification shall be made within forty-eight (48) hours after the receipt of such contribution and shall include the name of the candidate, political committee or measure,

## THE SUNSHINE LAW

the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions in the regular reports.

(4) All reports required pursuant to this section shall be filed online with the secretary of state, unless a waiver has been provided under section 67-6623, Idaho Code, by no later than midnight on the date the filing is due.

(5) Reports required to be filed under the provisions of this section shall be filed until the account no longer shows any unexpended balance of contributions or expenditure deficit.

**History:** [Init. Measure 1974, No. 1; am. 1977, ch. 225; am. 1986, ch. 218; am. 1987, ch. 344; am. 1990, ch. 62; am. 1992, ch. 196; am. 1993, ch. 203; am. 1994, ch. 379; am. 2002, ch. 240; am. 2010, ch. 22; am. 2015, ch. 231; am. 2019, ch. 288; am. 2020, ch. 7]

**67-6608. SPECIAL PROVISION FOR CERTAIN ELECTIONS AND MEASURES.** (1) The political treasurer for a candidate for a judicial office or a local government office, or for a political committee that is specifically designated to support or oppose a candidate or local ballot measure, is exempt from filing reports under section 67-6607, Idaho Code, unless and until such time as the candidate receives contributions or expends funds in the amount of five hundred dollars (\$500) or more. Within seven (7) calendar days of the five hundred dollar (\$500) threshold being met, the political treasurer for the candidate shall file a cumulative report covering the period from the first contribution or expenditure to the current date and shall file all subsequent reports according to section 67-6607, Idaho Code, regardless of amounts received or expended.

(2) The political treasurer for a political committee that is not specifically designated to support or oppose any candidate or measure, but that receives contributions and makes expenditures for the purpose of supporting or opposing a candidate for a judicial office, a local government office, or a local ballot measure, is exempt from filing reports under section 67-6607, Idaho Code, unless and until such time as the political committee receives contributions or expends funds in the amount of one thousand dollars (\$1,000) or more. Within seven (7) calendar days of the one thousand dollar (\$1,000) threshold being met, the political treasurer for the political committee shall file a cumulative report covering the period from the first contribution or expenditure to the current date and shall file all subsequent reports according to section 67-6607, Idaho Code, regardless of amounts received or expended.

**History:** [S.L. 2019, ch. 288; am. 2020, ch. 70]

**67-6609. STATEMENT AS TO NO CONTRIBUTION OR EXPENDITURE.** If no contribution is received or expenditure made by or on behalf of a candidate or political committee during a period described in section 67-6607, Idaho Code, the political treasurer for the candidate or political committee shall file with the secretary of state, at the time required by such section of this act for the period, a statement to that effect.

**History:** [Init. Measure 1974, No. 1; am. 2019, ch. 288]

## THE SUNSHINE LAW

**67-6610. CONTRIBUTION IN EXCESS OF FIFTY DOLLARS.** (a) Any person who contributes more than fifty dollars (\$50.00) (including one or more smaller contributions which aggregate more than fifty dollars (\$50.00) in any one calendar year) to a candidate or political committee shall accompany the contribution with a statement of his full name and complete address.

(b) If a political treasurer is offered or receives a payment or contribution of more than fifty dollars (\$50.00), or which together with prior contributions from the same person during that calendar year exceeds fifty dollars (\$50.00), and there is no statement of the full name and complete address of the person making the contribution, the contribution shall be returned to the contributor if his identity can be ascertained. If the contributor's identity cannot be ascertained, the contribution shall be transmitted immediately by the political treasurer who received it to the state controller for deposit in the public school fund.

**History:** [Init. Measure 1974, No. 1; am. 1994, ch. 180]

**67-6610A. LIMITATIONS ON CONTRIBUTIONS.** (1) Except as provided in subsection (2) of this section, aggregate contributions for a primary election or a general election made by a corporation, political committee, other recognized legal entity or an individual shall be subject to the limitations of this subsection. This subsection shall not apply to a candidate contributing or loaning money to his own campaign account or to a candidate for a state legislative office who, in terminating his campaign account, transfers the balance of funds to that candidate's new campaign account for a different state legislative office. In such case, any contributions received in the closed account, combined with any contributions received in the new account, shall count against the contribution limits provided in this subsection when received from the same contributor for the same election date.

(a) Aggregate contributions by a corporation, political committee, other recognized legal entity, or an individual to a candidate for the state legislature, judicial office, or local government office, and political committees organized on the candidate's behalf, shall be limited to an amount not to exceed one thousand dollars (\$1,000) for the primary election and an amount not to exceed one thousand dollars (\$1,000) for the general election.

(b) Aggregate contributions for a primary election or a general election by a corporation, political committee, other recognized legal entity or an individual to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed five thousand dollars (\$5,000) for the primary election and an amount not to exceed five thousand dollars (\$5,000) for the general election.

(2) Aggregate contributions for a primary election or for a general election made by a county central committee or by the state central committee of the political parties qualified under section 34-501, *Idaho Code*, to a candidate for the state legislature and political committees organized on the candidate's behalf shall be limited to an amount not to exceed two thousand



## THE SUNSHINE LAW

dollars (\$2,000) for the primary election and an amount not to exceed two thousand dollars (\$2,000) for the general election. Aggregate contributions for the primary election or the general election by the state central committee of the political parties qualified under section 34-501, *Idaho Code*, to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed ten thousand dollars (\$10,000) for the primary election and an amount not to exceed ten thousand dollars (\$10,000) for the general election.

(3) For purposes of this section, “**statewide office**” shall mean an office in state government that shall appear on the primary or general election ballot throughout the state.

(4) Recall and special elections, for purposes of this section, shall be treated the same as general elections for contribution limits.

(5) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. A contribution of this kind shall be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the contributor. Contributions shall not include the personal services of volunteers.

(6) For the purposes of contribution limits, the following apply:

(a) A contribution by a political committee with funds that have all been contributed by one (1) person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(b) All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained or controlled by a trade association, labor union or collective bargaining organization shall be considered a contribution from such trade association, labor union or collective bargaining organization.

(c) Two (2) or more entities are treated as a single entity if the entities:

(i) Share the majority of members on their board of directors;

(ii) Share two (2) or more officers;

(iii) Are owned or controlled by the same majority shareholder or shareholders or persons;

(iv) Are in a parent-subsidary relationship; or

(v) Have bylaws so stating.

(7) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

**History:** [S.L. 1997, ch. 393; am. 2004, ch. 19; am. 2006, ch. 23; am. 2012, ch. 162; am. 2019, ch. 288; am. 2021, ch. 209]



## THE SUNSHINE LAW

**67-6610B. RETIRING DEBT.** (1) If a political committee organized on behalf of a candidate has unpaid debt at the end of the reporting periods specified in section 67-6607, *Idaho Code*, then the committee may accept additional contributions to retire such unpaid debt, provided the contributions do not exceed the applicable contribution limits prescribed.

(2) For the purposes of this section, “**unpaid debt**” means any unpaid monetary obligation incurred by the political committee as listed on the reports filed through the postelection report period minus any cash balance reported on the postelection report. Outstanding loans are considered a type of “**unpaid debt**.”

**History:** [S.L. 2004, ch. 277; am. 2019, ch. 288]

**67-6610C. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.** (1) Permitted uses. A contribution accepted by a candidate may be used by the candidate:

- (a) For expenditures in connection with the campaign for public office of the candidate;
- (b) For ordinary and necessary expenses incurred in connection with duties of the individual as a holder of public office;
- (c) For contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986;
- (d) For transfers, without limitation, to a national, state or local committee of a political party;
- (e) For donations to state and local candidates subject to the provisions of state law; or
- (f) For any other lawful purpose unless prohibited by subsection (2) of this section.

(2) Prohibited use.

(a) In general. A contribution shall not be converted by any person to personal use.

(b) Conversion. For the purposes of subsection (2)(a) of this section, a contribution shall be considered to be converted to personal use if the contribution is used to fulfill any commitment, obligation or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of public office, including:

- (i) A home mortgage, rent or utility payment;
- (ii) A clothing purchase except for items of de minimis value such as campaign shirts or hats;
- (iii) A noncampaign or nonofficeholder related automobile expense;
- (iv) A country club membership;
- (v) A vacation or other noncampaign-related trip;
- (vi) A tuition payment;
- (vii) Admission to a sporting event, concert, theater or other form of entertainment not associated with an election campaign;
- (viii) Dues, fees and other payments to a health club or recreational facility; and

## THE SUNSHINE LAW

(ix) Meals, groceries or other food expense, except for tickets to meals that the candidate attends solely for the purpose of enhancing the candidacy of another person or meal expenses which are incurred as part of a campaign activity or as part of a function that is related to the candidate's or officeholder's responsibilities.

**History:** [S.L. 2006, ch. 36]

### **67-6610D. FOREIGN CONTRIBUTIONS, FOREIGN INDEPENDENT EXPENDITURES, AND FOREIGN ELECTIONEERING COMMUNICATIONS PROHIBITED.**

(1) A foreign national shall not make a contribution, directly or indirectly, to any candidate, political committee, or measure or make electioneering communications or independent expenditures.

(2) As used in this section, "**foreign national**" means:

(a) An individual who is not a citizen of the United States and is not lawfully admitted for permanent residence;

(b) A government or subdivision of a foreign country;

(c) A foreign political party; or

(d) Any entity, such as a partnership, association, corporation, organization, union, or other combination of persons, that is organized under the laws of or has its principal place of business in a foreign country.

(3) A violation of the provisions of this section shall be prosecuted and punished as provided in section 67-6625(2) through (5), *Idaho Code*. Provided, however, any person who knowingly and willfully violates the provisions of this section is guilty of a felony when:

(a) The aggregate amount of contributions, independent expenditures, or cost of electioneering communications made in violation of this section exceeds one thousand dollars (\$1,000) in a consecutive twelve (12) month period; or

(b) The person pleads guilty to or is found guilty of a knowing and willful violation of the provisions of this section for a second time within ten (10) years, notwithstanding the form of the judgment or withheld judgment.

(4) If any provision of this section or its application to any person or circumstance is held invalid, the remainder of the section or the application of the provision to other persons or circumstances is not affected.

**History:** [S.L. 2021, ch. 237]

**67-6611. INDEPENDENT EXPENDITURES.** (1) Each person who makes independent expenditures in an aggregate amount exceeding one hundred dollars (\$100) in support of or in opposition to any one (1) candidate, political committee or measure, shall file a statement of the expenditure with the secretary of state.

(2) Statements shall be filed with the secretary of state, not less than seven (7) days prior to the primary and general election and thirty (30) days after the primary and general election.

(3) The statement shall contain the following information:

## THE SUNSHINE LAW

(a) The name and address of any person to whom an expenditure in excess of fifty dollars (\$50.00) has been made by any such person in support of or in opposition to any such candidate or measure during the reporting period, together with the amount, date and purpose of each such expenditure, including the identity of the candidate or measure, and whether the expenditure was made either in support of or in opposition to such candidate or measure; and

(b) The total sum of all expenditures made in support of or in opposition to any such candidate or measure.

(4) In addition to the requirements set forth in subsections (1) and (2) of this section, each person who makes independent expenditures in an aggregate amount of one thousand dollars (\$1,000) or more after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election, shall file a written statement of the expenditure with the secretary of state not more than forty-eight (48) hours from the time of such expenditure. The statement shall include the information required in subsection (3) of this section.

**History:** [S.L. 1997, ch. 393; am. 1999, ch. 29; am. 2003, ch. 20; am. 2004, ch. 148; am. 2021, ch. 150]

**67-6612. DISCLOSURE OF PAYMENTS MADE TO SIGNATURE GATHERERS.** (1) Any person who pays or provides other valuable consideration in an aggregate amount of one hundred dollars (\$100) or more to another person or persons, in exchange for their actions or intended actions of gathering signatures on a ballot initiative petition or referendum, shall file a statement of the expenditure with the secretary of state.

(2) The provisions of this section shall apply beginning on the date that the ballot initiative or referendum petitioners receive from the secretary of state the official ballot title for which the person is paying to have signatures gathered and shall continue for as long as the filer makes payments to a signature gatherer or gatherers.

(3) Statements shall be filed on or before the twentieth day of the month following the month during which the payments to the signature gatherers were made.

(4) The statement shall contain the following information:

(a) The name and address of any signature gatherer to whom a payment in excess of fifty dollars (\$50.00) has been made during the reported month; and

(b) The total sum of all payments made to signature gatherers in the aggregate during the reported month.

(5) In addition to the statements filed under subsection (3) of this section, any person who pays a signature gatherer or gatherers the aggregate amount of one thousand dollars (\$1,000) or more during the fourteen (14) days prior to the election shall file a notice of the expenditures with the secretary of state not more than forty-eight (48) hours from the time of the expenditure. The notice shall include the information required under subsection (4) of this section.

**History:** [S.L. 2020, ch. 336]

## THE SUNSHINE LAW

**67-6613. COMMERCIAL REPORTING.** Each newspaper, periodical, broadcasting station, direct mailing company, printer and advertising agency which accepts expenditures from a political treasurer shall keep a current record (available to the public) listing the amounts paid and the obligations incurred by each candidate, political committee or political treasurer to such newspaper, periodical, broadcasting station, direct mailing company, printer or advertising agency.

**History:** [Init. Measure 1974, No. 1]

**67-6614. IDENTIFICATION OF SOURCE OF CONTRIBUTIONS AND EXPENDITURES.** No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution.

**History:** [Init. Measure 1974, No. 1]

**67-6614A. PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS.** Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election, approval or defeat of a candidate, measure or person standing for election to the position of precinct committeeman through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, the person responsible for such communication shall be clearly indicated on such communication.

**History:** [S.L. 1977, ch. 180; am. 1992, ch. 196.; am. 2016, ch. 304]

**67-6615. INSPECTION BY SECRETARY OF STATE AND COUNTY CLERKS.** (1) It is the intent of the legislature to consolidate filings for all offices and measures in a central online database established by the secretary of state.

(2) The secretary of state shall inspect each statement filed pursuant to this chapter for statewide, legislative, and judicial district offices or measures, and the county clerk shall inspect each statement filed for all local government offices or measures for which the county is the home county, as defined in section ~~34-1401~~, *Idaho Code*, within two (2) days after the date it is filed. He shall notify a person required to file a statement under this chapter immediately if:

- (a) It appears that the person has failed to file a statement as required by law or that a statement filed by the person does not conform to law; or
- (b) A written complaint is filed with the secretary of state or county clerk by any registered voter alleging that a statement filed with the secretary of state does not conform to law or to the truth or that a person has failed to file a statement required by law.

**History:** [Init. Measure 1974, No. 1; am. 2019, ch. 288]

## THE SUNSHINE LAW

**67-6616. EXAMINATION OF STATEMENTS.** Within three (3) months after the date of each election, the secretary of state shall examine such statement filed pursuant to this chapter for statewide, legislative, and judicial district offices or measures, and the county clerk shall inspect each statement filed for all local government offices or measures for which the county is the home county, as defined in section 34-1401, *Idaho Code*; and referring to the election, determine whether the statement conforms to law. Such examinations shall include a comparison of reports and statements received by the secretary of state pursuant to sections 67-6607 through 67-6609, 67-6611, and 67-6614, *Idaho Code*. The secretary of state or county clerk may require any person to answer in writing and under oath or affirmation any question within the knowledge of that person concerning the source of any contribution.

**History:** [Init. Measure 1974, No. 1; am. 2019, ch. 288]

**67-6617. REGISTRATION OF LOBBYISTS.** (1) Before doing any lobbying, or within thirty (30) days after being employed, designated, or contracted as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the secretary of state a lobbyist registration statement, in such detail as the secretary of state shall prescribe, accompanied by payment of a registration fee of ten dollars (\$10.00) to be deposited by the secretary of state in the state treasury. The lobbyist registration statement shall include:

(a) The lobbyist's name, permanent business address, and any temporary residential and business address in Ada county during the legislative session;

(b) The name, address, and notification e-mail address to be used under section 67-6619(2), *Idaho Code*, for the employer, client, or designated contact, as well as the general nature of the occupation or business of the lobbyist's employer or client, and the duration of his employment or contract;

(c) In the case of a designated lobbyist for a corporate entity as described under section 67-6618(7), *Idaho Code*, the name and notification e-mail address of the corporate entity that is already registered as a lobbyist and for whom the designated lobbyist will be reporting all corporate and employee activities;

(d) Whether the person from whom he receives compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to lobbying of legislation;

(e) The general subject or subjects of the lobbyist's legislative interest; and

(f) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this act.

## THE SUNSHINE LAW

(2) Any lobbyist who receives or is to receive compensation from more than one (1) person for his services as a lobbyist shall file a separate notice of representation, accompanied by the fee of ten dollars (\$10.00) for each separate notice of representation, with respect to each such person; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed by more than one (1) person, then such lobbyist may file a single statement, in which he shall detail the name, business address and general occupation of each person so paying or contributing.

(3) Whenever a change, modification, or termination of the lobbyist's employment or contract occurs, the lobbyist shall, within one (1) week of such change, modification or termination, furnish full information regarding the same by filing with the secretary of state an amended registration statement.

(4) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on or before each January 10, and failure to do so shall terminate his registration.

**History:** [Init. Measure 1974, No. 1; am. 1976, ch. 229; am. 1999, ch. 176; am. 2019, ch. 290]

**67-6618. EXEMPTION FROM REGISTRATION.** The following persons and activities shall be exempt from registration and reporting under sections 67-6617 and 67-6619, *Idaho Code*:

(1) Persons who limit their lobbying activities to appearances before public sessions of committees of the legislature or to appearances or participation in public meetings, public hearings or public proceedings held or initiated by executive officials or their employees.

(2) Persons who are employees of an entity engaged in the business of publishing, broadcasting or televising, while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(3) Persons who do not receive any compensation for lobbying and persons whose compensation for lobbying does not exceed two hundred fifty dollars (\$250) in the aggregate during any calendar quarter, including persons who lobby on behalf of their employer or employers, and the lobbying activity represents less than the equivalent of two hundred fifty dollars (\$250) of the employee's time per calendar year quarter, based on an hourly proration of said employee's compensation.

(4) Members of a trade association who are acting on behalf of and at the request of the trade association, if such association has registered as a lobbyist pursuant to this chapter, and if any expenditures are reported by the association pursuant to section 67-6619, *Idaho Code*.

(5) Elected state officers and state executive officers appointed by the governor subject to confirmation by the senate; elected officials of political subdivisions of the state of Idaho, acting in their official capacity.

(6) A person who represents a bona fide church (of which he is a member) solely for the purpose of protecting the constitutional right to the free exercise of religion.

## THE SUNSHINE LAW

- (7)(a) Employees of a corporate entity, if such corporate entity:
- (i) Has registered as a lobbyist pursuant to this chapter;
  - (ii) Has appointed one (1) or more of its employees or contractors as its official designated lobbyist; and
  - (iii) The person so appointed by the corporate entity has completed the designated lobbyist registration.
- (b) The corporate entity shall, through its designated lobbyist, fully and accurately report all expenditures made by employees who are exempt hereunder, in the manner and at the times required by section 67-6618, *Idaho Code*, and, in addition thereto, shall report the names of all employees who make expenditures in the aggregate sum of fifty dollars (\$50.00) or more during any calendar year on behalf of the corporate entity's lobbying activities.

**History:** [Init. Measure 1974, No. 1; am. 1976, ch. 362; am. 1998, ch. 242; am. 2006, ch. 106; am. 2019, ch. 290]

**67-6619. REPORTING BY LOBBYISTS.** (1) Any lobbyist registered under section 67-6617, *Idaho Code*, shall file with the secretary of state an annual report of his lobbying activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the secretary of state and shall be filed on January 31 of each year. In addition to the annual report, while the legislature is in session, every registered lobbyist shall file interim monthly periodic reports for each month or portion thereof that the legislature is in session, which shall be filed within fifteen (15) days of the first day of the month for the activities of the month just past, provided however, that any lobbyist covered under this chapter whose lobbying activities are confined only to executive officials shall be required to file interim periodic reports semiannually on January 31 and July 31.

(2) Once a lobbyist has filed an annual or semiannual report, each person identified as an employer, client, or designated contact on the report will be electronically notified that the report has been filed by the lobbyist, using the contact information provided for the employer, client, or designated contact upon registration.

(3) Each annual, semiannual and monthly periodic report shall contain:

(a) The total of all expenditures made or incurred on behalf of such lobbyist by the lobbyist's employer, employers, client, or clients, not including payments made directly to the lobbyist, during the period covered by the report. The totals shall be segregated according to financial category including, but not limited to: entertainment, food and refreshment, honoraria, travel, lodging, advertising and other like expenditures. Reimbursed personal living and travel expenses of a lobbyist made or incurred directly or indirectly for any lobbying purpose need not be reported.

(b) The name of any legislator or executive official to whom or for whose benefit on any one (1) occasion an expenditure in excess of one hundred dollars (\$100) per person for the purpose of lobbying, is made or incurred and the date, name of payee, purpose and amount of such expenditure.



## THE SUNSHINE LAW

Expenditures for the benefit of the members of the household of a legislator or executive official shall also be itemized if such expenditure exceeds the amount listed in this subsection.

(c) In the case of a lobbyist employed by or contracted with more than one (1) employer or client, the proportionate amount of such expenditures in each category made or incurred on behalf of each of his employers or clients.

(d) The subject matter of proposed legislation and the number of each senate or house bill, resolution, memorial or other legislative activity or any rule, ratemaking decision, procurement, contract, bid or bid process, financial services agreement or bond in which the lobbyist has been engaged in supporting or opposing during the reporting period; provided that in the case of appropriations bills, the lobbyist shall enumerate the specific section or sections which he supported or opposed.

(e) The itemization threshold in subsection (3)(b) of this section shall be adjusted biennially by directive of the secretary of state, using consumer price index data compiled by the United States department of labor.

(4) Reports required to be filed under the provisions of this section shall be filed online with the secretary of state, except as provided in section 67-6623, Idaho Code, by no later than midnight on the date the filing is due.

**History:** [S.L. 2008, ch. 306; am. 2010, ch. 22; am. 2019, ch. 290]

**67-6619A. REPORTS BY STATE ENTITIES.** Any office or agency of state government or a state funded educational institution that offers gifts of any kind through interaction with the legislative or executive department of state government shall file the same reports lobbyists are required to file pursuant to section 67-6619, Idaho Code, with the exception of reporting under section 67-6619(3)(d), *Idaho Code*, unless the office, agency or state funded educational institution is otherwise represented by a lobbyist who files all necessary reports and documentation as provided by law.

**History:** [S.L. 2016, ch. 345; am. 2019, ch. 290]

**67-6620. EMPLOYMENT OF UNREGISTERED PERSONS.** It shall be a violation of this act for any person to employ for pay or any consideration, or pay or agree to pay any compensation to, a person to lobby who is not registered or exempt from registration under this act unless such person registers as a lobbyist as provided by this act as soon as practicable after such employment or payment, or agreement to pay, compensation.

**History:** [Init. Measure 1974, No. 1]

**67-6621. DUTIES OF LOBBYISTS.** A person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer or client, if such employer or client aids, abets, ratifies or confirms any such act, to other civil liabilities, as provided by this chapter:



## THE SUNSHINE LAW

(1) Such persons shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the financial reports required to be made under this chapter for a period of at least three (3) years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers and documents shall be made available for inspection by the secretary of state at any reasonable time during such three (3) year period; provided, however, that if a lobbyist is required under the terms of his employment contract to turn any records over to his employer or client, responsibility for the preservation of such records under this subsection shall rest with such employer or client.

(2) In addition, a person required to register as a lobbyist shall not:

(a) Engage in any activity as a lobbyist before registering as such;

(b) Knowingly deceive or attempt to deceive any legislator to any fact pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(d) Knowingly represent an interest adverse to any of his employers or clients without first obtaining such employers' or clients' consent thereto after full disclosure to such employers or clients of such adverse interest;

(e) Exercise any economic reprisal, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation;

(f) Accept any employment as a lobbyist for a compensation dependent in any manner upon the passage or defeat of any proposed or pending legislation or upon any other contingency connected with the action of the legislature or of either branch thereof or of any committee thereof.

This contingent fee prohibition shall also apply to lobbying activities that pertain to communications with executive officials as described in section 67-6602(9), *Idaho Code*.

**History:** [Init. Measure 1974, No. 1; am. 2015, ch. 244; am. 2015, ch. 284; am. 2017, ch. 142; am. 2018, ch. 169; am. 2019, ch. 288; am. 2019, ch. 290; am. 2020, ch. 82]

**67-6622. DOCKET—CONTENTS—REPORTS TO LEGISLATURE—SUBJECTS OF LEGISLATION—WRITTEN AUTHORIZATION.** The Secretary of State shall prepare and keep a docket in which shall be entered the name and business address of each lobbyist and the name and business address of his employer or employers, and the subject or subjects of legislation (by bill number, if available) to which the employment relates, which information shall also be indexed by names of employers of lobbyists. Such docket shall be a public record and open to the inspection of any citizen upon demand at any time during the regular business hours of the office of the Secretary of State. Beginning with the first week following the beginning of any regular or special session of the legislature and on every Wednesday thereafter for the duration of such session, the Secretary of State shall from his records report to each house

## THE SUNSHINE LAW

of the legislature the names of lobbyists registered under this act not previously reported, the names of the persons whom they represent as such lobbyist, and subject of legislation (by bill number, if available) in which they are interested.

**History:** [Init. Measure 1974, No. 1]

### **67-6623. DUTIES OF SECRETARY OF STATE AND COUNTY CLERKS.**

(1) The secretary of state and each county clerk is charged with enforcement of the provisions of this chapter.

(2) In addition to duties otherwise prescribed in this section, it shall be the duty of the secretary of state:

(a) To prescribe forms for statements and other information required to be filed by this act, and to furnish such forms and instruction manual to persons required to file such statements and information;

(b) To make statements and other information filed with him available for public inspection and copying during regular office hours, and to make copying facilities available at a charge not to exceed actual cost;

(c) To preserve such statements and other information for a period of four (4) years from date of receipt;

(d) With respect to statewide, legislative, and judicial district offices and measures, to make investigations of statements filed under the provisions of this chapter, and with respect to alleged failures to file any statement required under the provisions of this chapter, and upon complaint by any person with respect to alleged violations of any part of this chapter;

(e) To report suspected violations of law to the appropriate law enforcement authorities;

(f) To prescribe and publish rules in accordance with the provisions of chapter 52, title 67, *Idaho Code*, and to take such other actions as may be appropriate to carry out the provisions of this chapter;

(g) To require and prescribe methods for the filing of reports in an online database established by the secretary of state's office for the filing and publication of all reports required pursuant to this chapter. The online database shall accommodate the filings of all state and local government candidates, political committees, measures, and lobbyists. The online database shall be accessible on the secretary of state's website and be searchable by the public by address, candidate, committee, contribution, contributor, date, expense, office, party, purpose, and any other content deemed appropriate by the secretary of state. The secretary of state may, on an individual basis, grant a hardship waiver and accept a report required by this chapter in another format specified by the secretary of state, which will be entered into the online database by the secretary of state within three (3) days of filing.

(3) It shall be the duty of the county clerk with respect to all local government offices or measures for which the county is the home county, as defined in section 34-1401, *Idaho Code*, to make investigations of statements required to be filed under this chapter of alleged failures to file any required statement and of any complaint filed by any person of an alleged violation of

## THE SUNSHINE LAW

any part of this chapter with respect to local government offices or measures in the county. The county clerk shall report any suspected violations of this chapter pertaining to a local government office or measure to the county prosecutor.

**History:** [Init. Measure 1974, No. 1; am. 1977, ch. 180; am. 2010, ch. 22; am. 2017, ch. 142; am. 2018, ch. 2; am. 2019, ch. 288]

**67-6624. STATEMENTS TO BE CERTIFIED.** All statements required to be filed with the secretary of state under this act shall be signed and certified as true and correct by the person required to file the same. Electronic signatures and certifications shall be governed by the uniform electronic transactions act, chapter 50, title 28, *Idaho Code*.

**History:** [Init. Measure 1974, No. 1; am. 2017, ch. 142]

**67-6625. VIOLATIONS—CIVIL FINE—MISDEMEANOR PENALTY—PROSECUTION—LIMITATION—VENUE.** (1) Any person who violates the provisions of sections 67-6603, 67-6604, 67-6606 through 67-6614A, 67-6617, 67-6619, 67-6620, 67-6621(1), 67-6624, 67-6627 or 67-6628, *Idaho Code*, shall be liable for a civil fine not to exceed two hundred fifty dollars (\$250) if an individual, and not more than two thousand five hundred dollars (\$2,500) if a person other than an individual. The burden of proof for such civil liability shall be met by showing a preponderance of the evidence.

(2) Any person who violates section 67-6605 or 67-6621(2), *Idaho Code*, and any person who knowingly and willfully violates sections 67-6603 through 67-6614A, 67-6617, 67-6619, 67-6620, 67-6621(1), 67-6624, 67-6627 or 67-6628, *Idaho Code*, is guilty of a misdemeanor and, upon conviction, in addition to the fines set forth in subsection (1) of this section, may be imprisoned for not more than six (6) months or be both fined and imprisoned.

(3) The attorney general or the appropriate prosecuting attorney may prosecute any violations of this chapter.

(4) Prosecution for a civil or misdemeanor violation of this chapter must be commenced within two (2) years after the date on which the violation occurred. Prosecution for a felony violation of this chapter must be commenced pursuant to the provisions of section 19-402, *Idaho Code*.

(5) Venue for prosecution under the provisions of this chapter shall be in the county of residence of the defendant if the defendant is a resident of the state of Idaho, otherwise venue shall be in Ada county.

**History:** [Init. Measure 1974, No. 1; am. 1976, ch. 227; am. 1977, ch. 169; am. 1978, ch. 43; am. 1997, ch. 393; am. 2001, ch. 106; am. 2005, ch. 254; am. 2017, ch. 142; am. 2021, ch. 237]

**67-6625A. LATE FILING OF STATEMENT OR REPORT — FEES.** (1) If any person fails to file a report or statement required under this chapter on or before a specified date, he shall be liable to the secretary of state for deposit in the general fund in the amount of fifty dollars (\$50.00) per day beginning forty-eight (48) hours after the deadline until the statement or report is filed. The secretary of state or the county clerk shall notify the person and

## THE SUNSHINE LAW

his treasurer, if any, that a fine has been assessed and will continue to accrue until the report or statement has been filed. The notification shall be made by telephone or electronic means within twenty-four (24) hours of the missed filing deadline.

(2) The remedy provided in this section is cumulative and does not exclude any other remedy or penalty prescribed in section 67-6625, *Idaho Code*.

**History:** [S.L. 1977, ch. 169; am. 1993, ch. 203; am. 2019, ch. 288]

**67-6626. INJUNCTIONS.** The district courts of this state shall have original jurisdiction to issue injunctions to enforce the provisions of this chapter upon application by any citizen of this state, by the secretary of state or by the county clerk. The court may in its discretion require the citizen plaintiff to file a written complaint with the secretary of state or county clerk prior to seeking injunctive relief. A successful plaintiff is entitled to be reimbursed for reasonable costs of litigation, including reasonable attorney's fees, by the person or persons named defendant in said injunctive action. A successful defendant is entitled to be reimbursed for reasonable costs of litigation, including reasonable attorney's fees, if the court determines that plaintiff's action was without substantial merit.

**History:** [Init. Measure 1974, No. 1; am. 2019, ch. 288]

**67-6627. PERSUASIVE POLL CONCERNING CANDIDATE MUST IDENTIFY PERSON OR ENTITY PAYING FOR POLL.** (1) If a person, candidate, political party or political committee requests or compensates a person to:

- (a) Conduct or cause to be conducted a persuasive poll by telephone concerning a candidate; or
- (b) Produce automated or computerized messages by telephone to conduct a persuasive poll concerning a candidate. The person conducting the poll shall, at the end of the poll, disclose the name and telephone number of the person, candidate, political party or political committee that requested or compensated the person for the poll.

(2) As used in this section, "**persuasive poll**" means the canvassing of persons, by means other than an established method of scientific sampling, by asking questions or other information concerning a candidate which is designed to provide information that is designed to advocate the election, approval or defeat of a candidate or measure. The term does not include a poll that is conducted only to measure the public's opinion about or reaction to an issue, fact or theme.

(3) A violation of the provisions of this section shall be punishable as provided in section 67-6625, *Idaho Code*.

**History:** [S.L. 2000, ch. 153; am. 2001, ch. 106; am. and redesign. 2017, ch. 142]

## THE SUNSHINE LAW

### **67-6628. ELECTIONEERING COMMUNICATIONS—STATEMENTS.**

(1) Any person who conducts or transmits any electioneering communication shall be required to file a statement on a form provided by the secretary of state. Contents of the statement shall include the amount spent on such communications, the name and address of the person, and the names and addresses of any persons who contribute fifty dollars (\$50.00) or more to any person described in this section.

(2) Any person that incurs costs in excess of one hundred dollars (\$100) when making an electioneering communication shall file a statement in accordance with the time limits established by section 67-6611(2), *Idaho Code*.

(3) In addition to the requirements of subsection (2) of this section, any person that incurs costs of one thousand dollars (\$1,000) or more when making an electioneering communication shall file a statement as provided in subsection (1) of this section within forty-eight (48) hours of incurring the costs for such communication.

**History:** [S.L. 2005, ch. 254; am. and redesisg. 2017, ch. 142]

**67-6629. SEVERABILITY.** If any provisions of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

**History:** [Init. Measure 1974, No. 1; am. and redesisg. 2017, ch. 142]

**67-6630. CONSTRUCTION.** The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between the provisions of this act and any other act, the provisions of this act shall govern.

**History:** [Init. Measure 1974, No. 1; am. and redesisg. 2017, ch. 142]



**Title 74**  
**Transparent And Ethical**  
**Government**





## Title 74: Transparent And Ethical Government

**74-601. SHORT TITLE.** This act shall be known and may be cited as the “Public Integrity in Elections Act.”

**History:** [S.L. 2018, ch. 260]

**74-602. LEGISLATIVE INTENT.** The legislature finds that it is against the public policy of the state of Idaho for public funds, resources or property to be used to advocate for or against a candidate or ballot measure.

**History:** [S.L. 2018, ch. 260]

**74-603. DEFINITIONS.** As used in this chapter:

(1)(a) “**Advocate**” means to campaign for or against a candidate or the outcome of a ballot measure.

(b) “**Advocate**” does not mean providing factual information about a ballot measure and the public entity’s reason for the ballot measure stated in a factually neutral manner. Factual information includes but is not limited to the cost of indebtedness, intended purpose, condition of property to be addressed, date and location of election, qualifications of candidates, or other applicable information necessary to provide transparency to electors.

(2) “**Ballot measure**” means constitutional amendments, bond measures, or levy measures.

(3) “**Candidate**” means and includes every person for whom it is contemplated or desired that votes be cast at any political convention, primary, general, local, or special election and who either tacitly or expressly consents to be so considered.

(4) “**Expenditure**” means:

(a) A purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value; or

(b) A legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value.

(5) “**Property or resources**” means goods, services, equipment, computer software and hardware, college extra credit, other items of intangible property, or facilities provided to or for the benefit of a candidate, a candidate’s personal campaign committee, a political issues committee for political purposes, or advocacy for or against a ballot measure or candidate. Public property or resources that are available to the general public, at such times and in such manner as they are available to the general public, are exempt from this exclusion and may be used by a political party as defined in section 34-109, *Idaho Code*, provided that all political parties are given equal and fair access.

(6) “**Public entity**” means the state, each state agency, county, municipality, school district, state institution of higher learning, or other taxing district or public corporation empowered to submit ballot measures to its electors.

## TRANSPARENT AND ETHICAL GOVERNMENT

(7) “**Public funds**” means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(8) “**Public official**” means an elected or appointed member of a public entity who has:

(a) Authority to make or determine public policy;

(b) Supervisory authority over the personnel and affairs of a public entity; or

(c) Authority to approve the expenditure of funds for the public entity.

(9) “**State agency**” means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, or other administrative unit of the state.

**History:** [S.L. 2018, ch. 260; am. 2021, ch. 291; am. 2022, Ch. 179]

**74-604. PUBLIC FUNDS PROHIBITED.** Unless specifically required by law, and except as provided in this chapter:

(1) Neither a public entity nor its employees shall make, nor shall a public official make or authorize, an expenditure from public funds to advocate for or against a candidate or a ballot measure.

(2) Neither a public entity nor any of its employees shall use, nor shall a public official authorize or use, public property or resources to advocate for or against a candidate or a ballot measure.

(3) Neither a public entity nor any of its employees shall provide or offer to provide, nor shall a public official provide or offer to provide, college extra credit to a student of a state institution of higher learning either:

(a) To encourage a student to vote or not vote; or

(b) To influence a student’s vote for or against a candidate or ballot measure.

**History:** [S.L. 2018, ch. 260; am. 2021, ch. 291]

**74-605. EXCLUSIONS.** Nothing in this chapter shall prohibit:

(1) A public official or employee from speaking, campaigning, contributing personal money or otherwise exercising the public official’s or employee’s individual first amendment rights for political purposes, provided no public funds are used for expenditures supporting the public official or employee in such activity;

(2) A public entity, public official or employee from the neutral encouragement of voters to vote;

(3) An elected official or employee from personally campaigning or advocating for or against a ballot measure, provided no public funds, property or resources are used for supporting the elected official or employee in such activity;

(4) A public entity from preparing and distributing to electors an objective statement explaining the purpose and effect of the ballot measure, including in the case of bond or levy elections the cost per taxpayer or taxable value, or similar information based on reasonable estimates prepared in good faith;

## TRANSPARENT AND ETHICAL GOVERNMENT

(5) The formulation and publication of statements regarding proposed amendments to the state constitution, as authorized by section 67-453, *Idaho Code*;

(6) The publication of information described in sections 34-913, 34-914, and 34-1406, *Idaho Code*, as applicable, or other provisions of law requiring notices and disclosures in connection with elections and ballot measures; or

(7) A balanced student classroom discussion or debate of current or pending election issues.

**History:** [S.L. 2018, ch. 260; am. 2021, ch. 288]

**74-606. VIOLATIONS — REMEDIES.** (1) Any public official or employee who conducts or participates in an activity that violates the provisions of this chapter shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250).

(2) Any public official or employee who knowingly violates the provisions of this chapter shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500).

(3) Any public official or employee who knowingly violates any provision of this chapter and who has previously admitted to committing or has been previously determined to have committed a violation pursuant to subsection (2) of this section within the twelve (12) months preceding this subsequent violation shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500).

(4) The attorney general shall have the duty to enforce this chapter in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this chapter in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this chapter, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose, as provided in section 31-2603, *Idaho Code*.

**History:** [S.L. 2018, ch. 260]



# **Title 59**

## **Public Officers in General**



## Title 59: Public Officers In General

### Chapter 9 Resignations And Vacancies

**59-901. HOW VACANCIES OCCUR.** (1) Every elective civil office shall be vacant upon the happening of any of the following events at any time before the expiration of the term of such office, as follows:

- (a) The resignation of the incumbent.
- (b) The death of the incumbent.
- (c) Removal of the incumbent from office by lawful procedure.
- (d) The decision of a competent tribunal declaring an elective office vacant due to apparent abandonment or prolonged incapacity or absence, or other basis as determined by the tribunal, provided such apparent abandonment, prolonged incapacity, absence or other basis is in excess of ninety (90) days.
- (e) The incumbent ceasing to be a resident of the state, district or county in which the duties of his office are to be exercised, or for which he may have been elected.
- (f) A failure to elect someone at the proper election, there being no incumbent to continue in office until a successor is elected and qualified, nor other lawful provisions for filling an elective office.
- (g) A forfeiture of elective office as provided by any law of the state.
- (h) Conviction of an incumbent officeholder of any felony, or of any public offense involving the violation of his oath of office.
- (i) The acceptance of a commission to any military office, either in the militia of this state, or in the service of the United States, which requires the incumbent in the civil office to exercise his military duties out of the state for a period of not less than sixty (60) days.

**History:** [S.L. 1890-1891; reen. 1899; am. R.C., sec. 317; reen. C.L., sec. 317; C.S., sec. 453; I.C.A., sec. 57-901; am. 2012, ch. 209]

**59-902. RESIGNATIONS.** Resignations of civil offices must be in writing, and may be made as follows:

1. By the governor, or the lieutenant governor, to the legislature, if in session; if not, to the secretary of state.
2. By senators and representatives in congress, and by all other state officers elected statewide by the qualified voters of the state, and by judges of the supreme court and district courts, and regents of the university, to the governor.
3. By members of the senate and house of representatives, to the presiding officers of their respective bodies, in session, who shall immediately transmit information of the same to the governor. If such bodies are not in session, to the governor.

## PUBLIC OFFICERS IN GENERAL

4. By all county officers, to the county board, and by members of the county board, to the county auditor.

5. By all officers holding appointment, to the officer or body by whom they were appointed.

Such resignation shall not take effect until accepted by the board or officer to whom the same is made.

**History:** [S.L. 1890-1891; reen. 1899; compiled and reen. R.C., sec. 318; reen. C.L., sec. 318; C.S., sec. 454; I.C.A., sec. 57-902; am. 1975, ch. 21; am. 1977, ch. 105]

**59-903. NOTICE OF REMOVAL TO APPOINTING OFFICER.** Whenever an officer is removed, convicted of any infamous crime or offense involving a violation of his oath of office, or whenever his election or appointment is declared void, the body, judge, or officer before whom the proceedings were had, must give notice thereof to the officer empowered to fill the vacancy.

**History:** [R.S., sec. 432; compiled and reen. R.C., sec. 319; reen. C.L., sec. 319; C.S., sec. 455; I.C.A., sec. 57-903]

**59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED.** (a) All vacancies in any state office, and in the supreme and district courts, unless otherwise provided for by law, shall be filled by appointment by the governor. Appointments to fill vacancies pursuant to this section shall be made as provided in subsections (b), (c), (d), (e), (f) and (g) of this section, subject to the limitations prescribed in those subsections.

(b) Nominations and appointments to fill vacancies occurring in the office of lieutenant governor, state controller, state treasurer, superintendent of public instruction, attorney general and secretary of state shall be made by the governor, subject to the advice and consent of the senate, for the balance of the term of office to which the predecessor of the person appointed was elected.

(c) Nominations and appointments to and vacancies in the following listed offices shall be made or filled by the governor subject to the advice and consent of the senate for the terms prescribed by law, or in case such terms are not prescribed by law, then to serve at the pleasure of the governor:

Director of the department of administration,  
Director of the department of finance,  
Director of the department of insurance,  
Director, department of agriculture,  
Director of the department of water resources,  
Director of the Idaho state police,  
Director of the department of commerce,  
Director of the department of labor,  
Director of the department of environmental quality,  
Director of the department of juvenile corrections,  
Executive director of the commission of pardons and parole,  
The state historic preservation officer,



## PUBLIC OFFICERS IN GENERAL

The administrator of the division of human resources,  
Member of the state tax commission,  
Members of the board of regents of the university of Idaho and the state board of education,  
Members of the Idaho water resource board,  
Members of the state fish and game commission,  
Members of the Idaho transportation board,  
Voting members of the state board of health and welfare,  
Members of the board of environmental quality,  
Members of the board of directors of state parks and recreation,  
Members of the board of correction,  
Members of the industrial commission,  
Members of the Idaho public utilities commission,  
Members of the Idaho personnel commission,  
Members of the board of directors of the Idaho state retirement system,  
Members of the board of directors of the state insurance fund,  
Members of the commission of pardons and parole.

(d) Appointments made by the state board of land commissioners to the office of director, department of lands, and appointments to fill vacancies occurring in those offices shall be submitted by the president of the state board of land commissioners to the senate for the advice and consent of the senate in accordance with the procedure prescribed in this section.

(e) Appointments made pursuant to this section while the senate is in session shall be submitted along with the letter of appointment to the senate forthwith for the advice and consent of that body. Appointments made pursuant to this section while the senate is not in session shall be submitted along with the letter of appointment to the senate pursuant to section 67-803, Idaho Code. Should the senate adjourn without granting its consent to an appointment the appointment shall thereupon become void and a vacancy in the office to which the appointment was made shall exist, and the office shall be deemed vacant upon the date of adjournment. It is the duty of the appointing authority to supply the senate with the letter of appointment. The appointee shall supply the senate with the documentation it requests.

All appointments made pursuant to subsection (c) of this section, except those appointments for which a term of office is fixed by law, shall terminate at the expiration of any gubernatorial term. Appointments to fill the vacancies thus created by the expiration of the term of office of the governor shall be forthwith submitted to the senate for the advice and consent of that body, and when so submitted shall be as expeditiously considered as possible.

Upon receipt of an appointment along with the letter of appointment in the senate for the purpose of securing the advice and consent of the senate, the appointment shall be referred by the presiding officer to the appropriate committee of the senate for consideration and report prior to action thereon by the full senate.

## PUBLIC OFFICERS IN GENERAL

(f) Excepting the appointments made pursuant to subsection (c) of this section, whenever an appointee's term has expired as prescribed by law, the governor or the authorized appointing authority must fill the position within twelve (12) months of the expiration of the term. However, an office will be vacant if the governor or the authorized appointing authority:

(i) fails to timely appoint a qualified person at the earlier of the time required by law or required in this subsection; or (ii) fails to provide the senate with an appropriate letter or document of appointment by the thirty-sixth legislative day of the subsequent legislative session. All letters or documents of appointment must, as reasonably possible, accompany the additional documentation required by the senate. At the request of the secretary of the senate, the governor or the authorized appointing authority must provide the additional documentation.

(g) It is the intent of the legislature that the provisions of this section as amended by this chapter shall not apply to appointments which have been made prior to the effective date of this chapter. It is the further intent of the legislature that the provisions of this section shall apply to the offices listed in this section and to any office created by law or executive order which succeeds to the powers, duties, responsibilities and authorities of any of the offices listed in subsections (c) and (d) of this section.

**History:** [S.L. 1890-1891; reen. 1899; compiled and reen. R.C., sec. 320; reen. C.L., sec. 320; C.S., sec. 465; I.C.A., sec. 57-904; am. 1969, ch. 413; am. 1974, ch. 22; am. 1977, ch. 105; am. 1985, ch. 160; am. 1994, ch. 180; am. 1995, ch. 44; am. 1996, ch. 232; am. 1996, ch. 421; am. 1998, ch. 428; am. 1999, ch. 311; am. 1999, ch. 370; am. 2000, ch. 132; am. 2000, ch. 469; am. 2004, ch. 346; am. 2007, ch. 360; am. 2010, ch. 335; am. 2015, ch. 338]

**59-904A. LEGISLATURE -- VACANCIES, HOW FILLED.** In the event of a vacancy in the house of representatives or senate of the state of Idaho, such vacancy shall be filled as herein provided. The legislative district 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 legislative district committee shall designate one (1) of the three (3) nominees to fill the vacancy. The vacancy shall be so filled until the next general election after such vacancy occurs, when such vacancy shall be filled by election.

The legislative district 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 the 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. 1971, ch. 128.]

## PUBLIC OFFICERS IN GENERAL

**59-905. OTHER STATE OFFICES -- COUNTY AND CITY OFFICES -- VACANCIES, HOW FILLED.** Vacancies shall be filled in the following manner: In the office of the clerk of the Supreme Court, by the Supreme Court. In all other state offices, and in the membership of any board or commission created by the state, where no other method is specifically provided, by the governor. In county offices, by the procedure prescribed in section 59-906, *Idaho Code*, and in the membership of such board, by the governor. In city offices, by the mayor and council.

**History:** [S.L. 1890-1891; reen. 1899; compiled and reen. R.C., sec. 321; reen. C.L., sec. 321; C.S., sec. 457; I.C.A., sec. 57-905; am. 1975, ch. 21; am. 1982, ch. 4]

**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

## PUBLIC OFFICERS IN GENERAL

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 the 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:** [S.L. 1899; reen. R.C. & C.L., sec. 322; C.S., sec. 458; I.C.A., sec. 57-906; am. 1975, ch. 21; am. 1982, ch. 4; am. 1984, ch. 192; am. 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]

**59-907. PROSECUTING ATTORNEY -- VACANCY -- RESIDENCY -- CONTRACTING WITH ANOTHER PROSECUTING ATTORNEY.** (1) In the event a vacancy exists and there are three (3) or fewer resident attorneys in the county who are willing and qualified to perform the functions of prosecuting attorney as set forth in chapter 26, title 31, *Idaho Code*, the board of county commissioners may appoint and/or contract with an attorney from outside the county to perform the duties of prosecuting attorney for the balance of the unexpired term or such shorter period as the board of county commissioners shall determine.

## PUBLIC OFFICERS IN GENERAL

(2) A county may contract for prosecutorial services with another prosecuting attorney provided that:

- (a) The circumstances of subsection (1) of this section have occurred;
- (b) The boards of county commissioners of both affected counties adopt resolutions so authorizing the prosecutor to fill the vacancy or appointment and/or contract; and
- (c) The length of the term of appointment or contract complies with subsection (1) of this section.

(3) Subsection (2) of this section shall operate as a limited exception to that portion of section 31-2601, *Idaho Code*, that prohibits a prosecuting attorney from holding any other county office.

**History:** [S.L. 1988, ch. 295; am. 1996, ch. 158; am. 2006, ch. 115]

**59-908. RESIDENCE OF APPOINTED COMMISSIONER.** Whenever the governor appoints a county commissioner to fill a vacancy in any county, he shall appoint a person who is a resident of the commissioner district of the county in which the vacancy exists.

**History:** [S.L. 1899; reen. R.C. & C.L., sec. 323; C.S., sec. 460; I.C.A., sec. 57-908]

### **59-910. UNITED STATES SENATOR -- VACANCIES, HOW FILLED.**

Whenever any vacancy shall occur in the office of United States senator from the state of Idaho by death, resignation or otherwise, the governor shall have the power and is hereby authorized and empowered to fill such vacancy by appointment, and the person so appointed shall hold such office until such time as a United States senator is regularly elected to fill such vacancy, at the next succeeding general election, and qualifies by virtue of such election: provided, however, that in case a vacancy occurs in the position of United States senator from the state of Idaho within thirty (30) days of any general election, no election for United States senator to fill said vacancy shall be held at such general election.

**History:** [S.L. 1917; reen. C.L., sec. 325a; C.S., sec. 463; I.C.A., sec. 57-910.]

**59-911. REPRESENTATIVE IN CONGRESS -- VACANCIES, HOW FILLED.** Whenever any vacancy shall occur in the office of representative in congress from the state, it shall be the duty of the governor to appoint a day to hold an election, subject to the provisions of section 34-106, *Idaho Code*, to fill such vacancy, and cause notice of such election to be given as required in section 34-1406, *Idaho Code*.

**History:** [S.L. 1890-1891; reen. 1899; reen. R.C. & C.L., sec. 326; C.S., sec. 464; I.C.A., sec. 57-911; am. 1995, ch. 118]

## PUBLIC OFFICERS IN GENERAL

**59-912. VACANCIES NOT OTHERWISE PROVIDED FOR -- HOW FILLED.** When any office becomes vacant, and no mode is provided by law for filling such vacancy, the governor must fill such vacancy by appointment.

**History:** [R.S., sec. 434; am. R.C., sec. 327; reen. C.L., sec. 327; C.S., sec. 465; I.C.A., sec. 57-912; am. 1977, ch. 105]

**59-913. APPOINTMENTS TO BE IN WRITING.** Appointments under the provisions of this chapter shall be in writing, and continue until a successor is selected and qualified, and be filed with the secretary of state, or proper county auditor, respectively.

**History:** [S.L. 1890-1891; reen. 1899; reen. R.C. & C.L., sec. 328; C.S., sec. 466; I.C.A., sec. 57-913; am. 1977, ch. 105]

**59-914. ASSUMPTION OF OFFICE -- TENURE IN OFFICE.** Any of the said officers that may be elected to fill vacancies may qualify and enter upon the discharge of the duties of their offices immediately thereafter; and, they may hold the same during the unexpired term for which they were elected.

Any of the said officers that may be appointed to fill vacancies may qualify and enter upon the discharge of the duties of their offices subject to the provisions of section 59-904, *Idaho Code*, for the term designated in the order of appointment.

**History:** [S.L. 1899; compiled and reen. R.C., sec. 329; reen. C.L., sec. 329; C.S., sec. 467; I.C.A., sec. 57-914; am. 1977, ch. 105]

**59-915. VACANCY IN OFFICE -- POSSESSION PENDING QUALIFICATION OF SUCCESSOR.** When a vacancy occurs in a public office, the office and duties shall be assumed until the election or appointment and qualification of a successor as follows:

(1) Of the office of the county clerk, auditor and recorder or treasurer, by the senior deputy as designated in section 31-2006, *Idaho Code*. If no deputy is available, then the board of county commissioners shall assume the office until the election or appointment of a successor.

(2) Of any state executive officer, by the chief deputy, under the supervision of the governor.

**History:** [S.L. 1991, ch. 68]

**59-916. POWERS AND DUTIES OF APPOINTEE.** Any person elected or appointed to fill a vacancy, after filing his official oath and qualifying for the state official bond, as prescribed by chapter 8, title 59, *Idaho Code*, possesses all the rights and powers, and is subject to all the liabilities, duties and obligations, of the officer whose vacancy he fills.

**History:** [R.S., sec. 436; reen. R.C. & C.L., sec. 331; C.S., sec. 469; I.C.A., sec. 57-916; am. 1971, ch. 136]

## PUBLIC OFFICERS IN GENERAL

**59-917. TEMPORARY INABILITY OF OFFICERS.** Whenever for any reason any elective official of the state, is temporarily unable to perform the duties of his office, the governor may appoint a suitable person to perform such duties temporarily as an acting officer, until the incumbent of the office shall be able to resume the performance of his duties, or a vacancy occurs in such office. The governor shall require such bonds for persons so appointed as may appear to him necessary for the protection of the state, not exceeding the bonds given by the officer in whose stead he acts. Such acting officer shall be nominated by the incumbent of the office: provided, that when the incumbent is unable or fails to so nominate, the governor may appoint without such nomination: provided further, that nothing in this section contained shall be construed to amend or repeal existing laws relating to filling vacancies in state offices. In any case involving an office, the appointment to which, at the time involved would, in case of vacancy, require the consent of the senate, the consent of the senate shall be requisite to the temporary service of the acting officer.

**History:** [S.L. 1890-1891; reen. 1899, sec.1, 2; am. R.C., sec. 332; reen. C.L., sec. 332; C.S., sec. 470; I.C.A., sec. 57-917; am. 1945, ch. 164]





# INDEX

## ABSENTEE VOTING

<b>Absent electors' voting place</b>	
County clerks to provide, §34-1006	<i>p. 83</i>
<b>Authorized, §34-1001</b>	<i>p. 79</i>
<b>Ballots</b>	
Affidavit on back of return envelope, §34-1004	<i>p. 83</i>
Application for absentee ballot, §34-1002	<i>p. 79</i>
Record of applications, §34-1011	<i>p. 85</i>
Assistance in marking	
Elector physically unable to mark ballot, §34-1003	<i>p. 81</i>
Counting absentee ballots, §34-1007	<i>p. 84</i>
Defective ballots	
Rejection, §34-1010	<i>p. 85</i>
Deposit of absentee ballots, §34-1008	<i>p. 84</i>
Electronic transmission of application and ballot, §§34-1002, 34-1003	<i>p. 79-81</i>
Identification to be shown before receiving ballot, §§34-1106, 34-1113	<i>p. 88, 90</i>
Affidavit in lieu of identification, §34-1114	<i>p. 90</i>
Issuance of absentee ballot, §34-1003	<i>p. 81</i>
Marking and folding of absentee ballot, §34-1004	<i>p. 83</i>
Opening of return envelopes, §34-1008	<i>p. 84</i>
Personal delivery by clerk	
Witness to accompany	
Appointment by political party, §34-1003	<i>p. 81</i>
Return of absentee ballot, §34-1005	<i>p. 83</i>
When absentee ballots printed, §34-1003	<i>p. 81</i>
<b>Challenging absentee elector's vote, §34-1009</b>	<i>p. 85</i>
<b>Early Voting, §§34-1012, 34-1013</b>	<i>p. 85-86</i>
<b>Generally, §§34-1001 to 34-1013</b>	<i>p. 79-86</i>
<b>Mail ballot precincts, §34-308</b>	<i>p. 34</i>
<b>Political subdivisions, §34-1408</b>	<i>p. 101</i>
<b>Uniformed and overseas citizens absentee voting act (UOCAVA)</b>	
Transmission of blank ballots, §34-1003	<i>p. 81</i>
<b>Voting machines or vote tally systems, §34-2423</b>	<i>p. 167</i>

## AGE

<b>Attorney general</b>	
Qualifications, §34-612	<i>p. 53</i>
<b>County treasurers</b>	
Qualifications, §34-620	<i>p. 57</i>
<b>District courts</b>	
Judges	
Qualifications for election as district judge, §34-616	<i>p. 55</i>
<b>Education</b>	
Superintendent of public instruction	
Qualifications, §34-613	<i>p. 53</i>
<b>Elections</b>	
Qualifications of electors, §34-402	<i>p. 36</i>
<b>Governor</b>	
Qualifications, §34-607	<i>p. 51</i>
<b>Lieutenant governor</b>	
Qualifications, §34-608	<i>p. 51</i>
<b>Prosecuting attorneys</b>	
Qualifications, §34-623	<i>p. 58</i>
<b>Secretary of state</b>	
Qualifications, §34-609	<i>p. 52</i>
<b>State controller</b>	
Qualifications, §34-610	<i>p. 52</i>
<b>State treasurer</b>	
Qualifications, §34-611	<i>p. 52</i>
<b>Supreme court</b>	
Justices	
Qualifications, §34-615	<i>p. 54</i>

## AMENDMENTS

<b>Constitution of Idaho</b>	
Constitutional conventions, §§34-2201 to 34-2216	<i>p. 149-154</i>

## APPEALS

<b>Contests, §34-2025</b>	<i>p. 136</i>
Bonds, surety, §34-2027	<i>p. 137</i>
Primary elections, §34-2036	<i>p. 138</i>
Legislative and state executive offices	
Primary elections, §§34-2127, 34-2128	<i>p. 148</i>
Primary elections, §34-2035	<i>p. 138</i>
<b>County clerks</b>	
Persons aggrieved by acts or failure to act by, §34-215	<i>p. 28</i>
<b>Recount of ballot</b>	
Candidate disagreeing with recount results, §34-2308	<i>p. 156</i>
<b>Secretary of state</b>	
Persons aggrieved by acts or failure to act by, §34-215	<i>p. 28</i>

# INDEX

## ARREST

### Elections

- Electioneering at polls
  - Duty of officers, sheriffs, constables, etc., to make arrest, §18-2318 *p. 189*
- Privilege of electors from arrest, §34-401 *p. 35*

## ASSISTANCE

### Absentee Ballots

- Elector physically unable to mark ballot, §34-1003 *p. 81*

### Elections

- Assistance to voters, §34-1108 *p. 89*

### Voting machines or vote tally systems

- Instruction and assistance for voters with disabilities, §34-2033 *p. 138*

## ATTORNEY GENERAL

### Age

- Qualifications, §34-612 *p. 53*

### Elections

- Candidates for attorney general
  - Declaration of candidacy, §34-612 *p. 53*
- Initiative and referendum elections
  - Review of initiative & referendum measures by attorney general, §34-1809 *p. 123*
- Qualifications for election as attorney general, §34-612 *p. 53*
- Recall elections
  - General provisions, §§34-1701 to 34-1715 *p. 105-114*
- When attorney general elected, §34-612 *p. 53*

### Qualifications for holding office,

- §34-612 *p. 53*

### Recount of ballots

- Impoundment of ballots, §34-2303 *p. 155*
- Order for recount, §34-2304 *p. 155*

## BALLOT BOXES

### County commissioners to provide sufficient ballot boxes, §34-902 *p. 71*

### Duplicate ballot boxes

- Counting ballots, §34-1201 *p. 90*
- Comparison of poll lists and ballots, §34-1202 *p. 91*

### Judges of election

- Opening ballot boxes, §34-1103 *p. 87*

## BALLOTS

### Absentee voting

- See “ABSENTEE VOTING” heading

### Assistance in marking

- See “ASSISTANCE” heading

## BALLOTS — Cont’d

### Attempt of officer to ascertain vote

- or open ballot, §18-2308 *p. 187*

### Bond elections

- Void ballots not counted, §34-1202A *p. 91*

### Candidate’s name appearing on ballot

- for more than one office, §34-903 *p. 71*

### Canvass of votes

- See “CANVASS OF VOTES” heading

### Change of candidate’s name,

- §34-903A *p. 72*

### Contents

- Secretary of state to prescribe, §34-903 *p. 71*

### Contests

- Inspection, §34-2018 *p. 135*
- Return to county auditor, §34-2019 *p. 135*
- Legislative and state executive offices. Examination, §34-2113 *p. 144*

### Correction of ballots

- Vacancy in candidacy occurring after printing, §34-912 *p. 76*

### County clerk

- See “COUNTY CLERK” heading

### County commissioners to provide

- sufficient ballots, §34-902 *p. 71*

### Delivery of ballot to elector,

- §34-1106 *p. 88*

### Early voting ballot security,

- §34-1013 *p. 86*

### Elections

- General elections, §34-906 *p. 75*
- Initiatives and Referendums
  - Ballot Title, §34-1809 *p. 123*
  - Printing and designation of ballot titles on official ballots, §34-1810 *p. 124*

### Primary elections

- Preparation of primary ballots, §34-713 *p. 66*

### Presidential primary

- Listing of candidates, §34-732 *p. 69*
- Removal of candidates, §34-733 *p. 69*
- Sample form, §34-712 *p. 66*
- Separate ballot for each party, §34-904 *p. 72*

### Recall elections

- Form, §34-1708 *p. 111*

### Sample ballots

- Secretary of state to forward to counties, §34-909 *p. 75*

### Identification of official election ballots,

- §34-901 *p. 70*
- Marking on outside of ballot identification, §34-908 *p. 75*

## INDEX

### BALLOTS — Cont'd

**Identification to be shown before receiving ballot**, §§34-1106, 34-1113 *p. 88, 90*

Affidavit in lieu of identification,  
§34-1114 *p. 90*

**Mail ballot precincts**, §34-308 *p. 34*

**Marking of ballot by voter**, §34-908 *p. 75*

Absentee ballot, §34-1004 *p. 83*  
Instructions  
County clerk to prepare,  
§34-911 *p. 76*

#### Nonpartisan ballots

District judges, §34-905 *p. 74*  
Highway district commissioners,  
§34-905A *p. 74*  
Justices of supreme court, §34-905 *p. 74*

**Printing**, §34-902 *p. 71*

#### Records

Absentee ballots  
Applications for, §34-1011 *p. 85*  
Number of ballots printed and furnished,  
§34-910 *p. 76*

**Recount of ballots**, §§34-2301 to  
34-2313 *p. 154-157*

**Spoiled ballots**, §34-1109 *p. 89*

**Tampering with ballots**, §18-2316 *p. 188*

### BOND ISSUES

#### Ballots

Void ballots  
Not counted at bond elections,  
§34-1202A *p. 91*

#### Contests

Bond or mill levy elections,  
§34-2001A *p. 131*

**Disclosures in elections to authorized bonded indebtedness**, §34-439 *p. 46*

#### Voting machines or vote tally systems

Applicability of bond election laws,  
§34-2403 *p. 159*  
Payment for machines, §34-2407 *p. 160*  
Prior approval required for issuance  
of bonds, §34-2408 *p. 160*  
Use in bond issue elections  
Authorized, §34-2402 *p. 159*

### BOUNDARIES

#### Precincts

Changes in boundaries  
Alteration of registration cards,  
§34-417 *p. 42*  
Maintenance of boundaries,  
§34-307 *p. 34*  
Requirements, §34-306 *p. 34*  
Same as legislative districts,  
§34-301 *p. 31*

### BREACH OF THE PEACE

**Privilege of electors from arrest**,  
§34-401 *p. 35*

### CAMPAIGN FINANCE

**Appointment of Political Treasurer**,  
§67-6603 *p. 199*

**Certification of statements**,  
§67-6624 *p. 215*

**Commercial Reporting**, §67-6607 *p. 201*

**Definitions**, §67-6602 *p. 195*

Generally,  
§67-6601 to §67-6630 *p. 195-217*

Penalties, §67-6625 *p. 215*

Fees for late filing, §67-6625A *p. 215*

Persuasive Polls, §67-6627 *p. 216*

#### Political statements

Publication or distribution of,  
§67-6614A *p. 208*

### CANDIDATES

**Change of name on ballot**, §34-903A *p. 72*

**Changing political parties**, §34-627 *p. 61*

**Declaration of candidacy**, §34-704 *p. 63*

Attorney general, §34-612 *p. 53*

Clerks of district courts, §34-619 *p. 57*

#### Congress

Representatives, §34-605 *p. 50*

Senators, §34-604 *p. 50*

Coroners, §34-622 *p. 58*

County assessors, §34-621 *p. 57*

County commissioners, §34-617 *p. 56*

County treasurers, §34-620 *p. 57*

District court judges, §34-616 *p. 55*

Filing, §34-704 *p. 63*

#### Fees

Attorney general, §34-612 *p. 53*

Clerks of district courts,  
§34-619 *p. 57*

Coroners, §34-622 *p. 58*

County assessors, §34-621 *p. 57*

County commissioners,  
§34-617 *p. 56*

County treasurers, §34-620 *p. 57*

District judges, §34-616 *p. 55*

Governor, §34-607 *p. 51*

Highway district commissioners  
in single county wide districts,  
§34-625 *p. 59*

Lieutenant governor, §34-608 *p. 51*

Payment, §34-701 *p. 61*

Petition in lieu of filing fee,  
§34-626 *p. 60*

Prosecuting attorneys,  
§34-623 *p. 58*

Secretary of state, §34-609 *p. 52*

Sheriffs, §34-618 *p. 56*

State controller, §34-610 *p. 52*

State representatives,  
§34-614 *p. 53*

# INDEX

## CANDIDATES — Cont'd

### Declaration of candidacy — Cont'd

#### Filing — Cont'd

##### Fees — Cont'd

- State senators, §34-614 *p. 53*
- State treasurer, §34-611 *p. 52*
- Superintendent of public instruction, §34-613 *p. 53*
- Supreme court justices, §34-615 *p. 54*
- United States congressional representatives, §34-605 *p. 50*
- United States senators, §34-604 *p. 50*
- Withdrawal of candidacy, §34-717 *p. 68*
- Notification to parties, §34-706 *p. 64*
- Time for, §34-704 *p. 63*
- With whom filed, §34-705 *p. 63*

#### Form

- Secretary of state to prescribe, §34-701 *p. 61*
- Governor, §34-607 *p. 51*
- Highway district commissioners in single county wide districts, §34-625 *p. 59*
- Qualifications, §34-625A *p. 60*
- Independent candidates, §34-708 *p. 64*
- President and vice-president, §34-708A *p. 65*
- Legislature
  - Representatives, §34-614 *p. 53*
  - Senators, §34-614 *p. 53*
- Lieutenant governor, §34-608 *p. 51*
- Notification to parties, §34-706 *p. 64*
- Party affiliation, §34-704 *p. 63*
- Political subdivisions, §34-1404 *p. 99*
- Prosecuting attorneys, §34-623 *p. 58*
- Secretary of state, §34-609 *p. 52*
- Sheriffs, §34-618 *p. 56*
- State controller, §34-610 *p. 52*
- State treasurer, §34-611 *p. 52*
- Superintendent of public instruction, §34-613 *p. 53*
- Supreme court justices, §34-615 *p. 54*
- Write-in candidates at primary, §34-702 *p. 62*

### Defined, §34-113 *p. 23*

### Independent candidates, §34-708 *p. 64*

- President and vice president, §34-708A *p. 65*
- Primary elections
  - Independent candidates not to be voted on at, §34-703 *p. 62*

### Petitions

- Declaration of candidacy
  - Filing fee
    - Petition in lieu of, §34-626 *p. 60*
- Independent candidates
  - Petition to accompany, §§34-708, 34-708A *p. 64, 65*

## CANDIDATES — Cont'd

### Political subdivisions

### Declaration of candidacy, §34-1404 *p. 99*

- Notice of filing deadline, §34-1405 *p. 100*
- Qualifications, verification, certification, §34-1404 *p. 99*
- Withdrawal, §34-1405A *p. 100*
- Write in candidates, §34-1407 *p. 101*

### President and vice president

- Certification of candidates, §34-711 *p. 66*
- Independent candidates, §34-708A *p. 65*

### Presidential electors

- Certification of candidates for, §34-711 *p. 66*
- Independent candidates, §34-711A *p. 66*

### Vacancies in slate of political party candidates

#### Filing

- Vacancies occurring before or after primary election, §34-715 *p. 67*
- Vacancies occurring prior to primary election, §34-714 *p. 67*

### Vacancies of candidates for judicial offices

- Filing, §34-716 *p. 68*

### Vacancies of candidates for nonpartisan offices occurring before general election

- Not filled, §34-716 *p. 68*

### Voting machines or vote tally systems

- Rotation of names of candidates, §34-2419 *p. 166*

### Withdrawal of candidacy

- Partisan offices, §34-717 *p. 68*
- Political subdivisions, §34-1405A *p. 100*

### Write in candidates

- Declaration of intent, §34-702A *p. 62*
- Political subdivisions, §34-1407 *p. 101*
- Primary elections
  - Requirements, §34-702 *p. 62*

## CANVASS OF VOTES

### Abstracts of returns, §34-1207 *p. 94*

- Examination by state board of canvassers, §§34-1212, 34-1213 *p. 95*

### Certificates of nomination or election

- County offices, §§34-1208, 34-1209 *p. 95*
- Federal, state, district or nonpartisan offices, §§34-1214, 34-1215 *p. 96, 96*
- Judicial offices, §34-1217 *p. 97*

### Counting ballots,

- §§34-1201, 34-1203 *p. 90, 92*
- Comparison of poll lists and ballots, §34-1202 *p. 91*
- Duplicate ballot boxes, §34-1201 *p. 90*

## INDEX

### CANVASS OF VOTES — Cont'd

#### Counting ballots — Cont'd

- Void ballots not counted,  
§34-1203 *p. 92*
- Bond elections, §34-1202A *p. 91*

#### County board of canvassers,

- §34-1205 *p. 94*
- Abstracts of returns, §34-1207 *p. 94*
- Meetings, §34-1205 *p. 94*
- Statement of votes cast, §34-1206 *p. 94*

#### Initiative elections, §34-1813 *p. 127*

#### Judicial elections, §34-1217 *p. 97*

#### Political subdivisions, §34-1410 *p. 101*

#### Recall elections,

- §§34-1710, 34-1711 *p. 111*

#### Referendum elections, §34-1813 *p. 127*

#### State board of canvassers

- Composition, §34-1211 *p. 95*
- Duties, §§34-1212, 34-1213 *p. 95*
- Meetings, §34-1211 *p. 95*

#### Tie votes

- Contests
  - Determination, §34-2022 *p. 136*
- County elections, §34-1210 *p. 95*
- State or district elections,  
§34-1216 *p. 97*

#### Transmission of results to county clerk,

- §34-1203 *p. 92*

#### Transmission of supplies to county clerk,

- §34-1204 *p. 94*

### CERTIFICATES OF ELECTION

#### Political subdivisions, §34-1410 *p. 101*

#### Supreme court justices, §34-1217 *p. 97*

### CHALLENGE

#### Challenge of voters, §34-1111 *p. 90*

- Challengers, §34-304 *p. 33*

#### Judges

- Power to challenge any voter,  
§34-1104 *p. 87*

### CHANGE OF NAMES

#### Elections

- Change of candidate's name, §34-903A *p. 72*

### CONFIDENTIALITY OF INFORMATION

#### Officers not to divulge information,

- §34-1110 *p. 89*

#### Registration cards, §34-416 *p. 42*

### CONGRESS

#### Districts

- Number of congressional districts,  
§34-1901 *p. 130*

#### Representatives

- Candidates
  - Declaration of candidacy,  
§34-605 *p. 50*

### CONGRESS — Cont'd

#### Representatives — Cont'd

- Qualifications, §34-605 *p. 50*

- Electors, US Const Art I §2

#### Vacancies

##### Elections to fill

- Exception to limitations on number of  
elections, §34-106 *p. 20*

- When elected, §34-605 *p. 50*

#### Senators

##### Candidates

- Declaration of candidacy,  
§34-604 *p. 50*

##### Senators — Cont'd

- Electors, US Const Amds 14, 17
- Qualifications, §34-604 *p. 50*
- When elected, §34-604 *p. 50*

### CONSTABLES

#### Election constable

- Appointment, §34-1105 *p. 88*
- Duties, §34-1105 *p. 88*

#### Electioneering at polls

- Duty to make arrest, §18-2318 *p. 189*

### CONSTITUTIONAL CONVENTIONS

#### Citation of act

- Short title, §34-2216 *p. 154*

#### Delegates

##### Compensation

- No compensation, §34-2212 *p. 153*

##### Election

- Ascertainment and certification of  
results, §34-2203 *p. 149*

- Ballot, §34-2206 *p. 151*

##### Candidates

- Declaration of candidacy,  
§34-2205 *p. 149*

- Nominating petitions,  
§34-2205 *p. 149*

##### Forms.

- Ballots, §34-2206 *p. 151*

- Declarations of candidates,  
§34-2205 *p. 149*

- Proclamation, §34-2201 *p. 149*

- Qualifications of voters,  
§34-2202 *p. 149*

- Results, §34-2207 *p. 152*

- Ascertainment and certification,  
§34-2203 *p. 149*

- Time for, §34-2201 *p. 149*

##### Vacancies

- Filling, §34-2207 *p. 152*

- Expenses, §34-2212 *p. 153*

- How paid, §34-2213 *p. 153*

- Meeting of delegates, §34-2208 *p. 153*

- Number of delegates, §34-2204 *p. 149*

- Qualifications of delegates,  
§34-2205 *p. 149*

# INDEX

## CONSTITUTIONAL

### CONVENTIONS — Cont'd

#### Expenses

How paid, §34-2213 *p. 153*

Federal statute to control, §34-2214 *p. 153*

#### Forms

Election of delegates

Ballots, §34-2206 *p. 151*

Declarations of candidates,  
§34-2205 *p. 149*

Journal of proceedings, §34-2210 *p. 153*

#### Powers

Organizational powers of convention,  
§34-2209 *p. 153*

#### Ratification of proposed amendments

Certificate of ratification, §34-2211 *p. 153*

Separability of provisions, §34-2215 *p. 154*

#### Title of act

Short title, §34-2216 *p. 154*

## CONSTITUTION OF IDAHO

### Amendments

Certification of proposed constitutional  
amendment to be submitted to people for  
vote, §34-603 *p. 50*

Conflicting amendments approved at  
same election

Procedure upon, §34-1811 *p. 125*

General elections

Submission to voters, §34-101 *p. 19*

## CONSTITUTION OF THE UNITED

## STATES

### Constitutional conventions,

§§34-2201 to 34-2216 *p. 149-154*

## CONTESTS

### Appeals

— See “APPEALS” heading

### Ballots and poll books

Inspection, §34-2018 *p. 135*

Return to county auditor,

§34-2019 *p. 135*

Legislative and state executive offices

Examination, §34-2113 *p. 144*

### Bond or mill levy elections

Complaint, §34-2001A *p. 131*

Time for filing, §34-2001A *p. 131*

Validation of prior elections,

§34-2001A *p. 131*

### Bonds, surety

Primary elections

Security for costs, §34-2031 *p. 137*

Security for costs, §34-2008 *p. 133*

Legislative and state executive offices,  
§34-2118 *p. 146*

## CONTESTS — Cont'd

### Complaint, §34-2008

*p. 133*

Amendments, §34-2015

*p. 134*

Bond or mill levy election,

§34-2001A *p. 131*

Specific allegations, §34-2009 *p. 133*

### Contests other than legislative and state executive offices,

§§34-2001 to 34-2036 *p. 130-138*

### Costs

Legislative and state executive offices

Appeals, §34-2128 *p. 148*

Assessment of costs, §34-2118 *p. 146*

Fraud or error by election official, §34-

2124 *p. 148*

Misconduct of election judges,

§34-2107 *p. 141*

Liability for costs, §34-2020 *p. 135*

Primary elections

Appeals

Bonds, surety, §34-2036 *p. 138*

Fraud or error by election official,

§34-2032 *p. 137*

Security for costs, §34-2008 *p. 133*

Legislative and state executive offices,

§34-2123 *p. 148*

Primary elections, §34-2031 *p. 137*

Definition of terms, §34-2102 *p. 138*

### Depositions

Legislative and state executive offices,

§§34-2108, 34-2110, 34-2111 *p. 141-143*

### Discovery

Court may order, §34-2033 *p. 138*

Grounds of contest, §34-2001 *p. 130*

Legislative and state executive offices,

§34-2104 *p. 139*

### Holding over in office

Order for possession, §34-2023 *p. 136*

### Judges of election

Jurisdiction of contests over judicial

offices, §34-2004 *p. 132*

Misconduct

When sufficient to set aside election,

§§34-2003, 34-2107 *p. 140, 141*

### Judgments

Affirmance, §34-2026 *p. 137*

Form of judgment, §34-2021 *p. 135*

### Jurisdiction

County and precinct officers,

§34-2006 *p. 132*

Judicial offices, §34-2004 *p. 132*

Legislative and state executive offices,

§§34-2103 *p. 139*

Primary elections, §34-2121 *p. 147*

Primary elections, §34-2029 *p. 137*

Removal of county seats and special  
questions, §34-2005 *p. 132*

## INDEX

### CONTESTS — Cont'd

**Legislative and state executive offices,**  
 §§34-2101 to 34-2128 p. 138-148  
*— See also “LEGISLATIVE AND STATE  
 EXECUTIVE OFFICES” heading*

#### Notice

Legislative and state executive offices,  
 §34-2108 p. 141  
 Contest papers delivered  
 to presiding officers  
 Notice of receiving papers,  
 §34-2115 p. 145

**Order for possession, §34-2023** p. 136

**Postponement of trial, §34-2012** p. 133

**Service of process, §34-2016** p. 134

#### Subpoenas

Legislative and state executive offices  
 Application for, §34-2110 p. 143  
 Disobedience  
 Penalty, §34-2110 p. 143  
 Issuance, §34-2110 p. 143  
 Witnesses, §34-2014 p. 134

#### Summons

Issuance, §34-2010 p. 133

#### Tie votes

Determination, §34-2022 p. 136

#### Trial

Postponement, §34-2012 p. 133  
 Powers of court, §34-2013 p. 134  
 Time for, §34-2011 p. 133

#### Void elections

When election declared void,  
 §34-2024 p. 136

#### Who may contest elections,

§34-2007 p. 133

#### Witnesses

Fees, §34-2016 p. 134  
 Legislative and state executive offices  
 Depositions, §§34-2108,  
 34-2110, 34-2111 p. 141-143  
 Examination of witnesses,  
 §34-2110 p. 143  
 Fees, §34-2110 p. 143  
 Subpoenas, §34-2110 p. 143  
 Power of court to compel attendance,  
 §34-2013 p. 134  
 Subpoenas, §34-2014 p. 134  
 Testimony, §34-2014 p. 134  
 Voters to testify as to qualifications,  
 §34-2017 p. 134

### CONTRIBUTIONS

**Foreign contributions prohibited,**  
 §67-6610D p. 206  
**Identification of source, §67-6614** p. 208  
**Limitations on, §67-6610A** p. 203  
**In excess of fifty dollars, §67-6610** p. 203  
**Obtained by political committee,**  
 §67-6605 p. 200

### CONTRIBUTIONS — Cont'd

**Reports, §67-6607** p. 201  
 Fees for late filing, §67-6625A p. 215  
**Statement of no contribution or  
 expenditure, §67-6609** p. 202  
**Use of, §67-6610C** p. 205

### CONVENTIONS

**Constitutional conventions,**  
 §§34-2201 to 34-2216 p. 149-154

### CORONERS

#### Candidates

Declaration of candidacy, §34-622 p. 58

**Qualifications, §34-622** p. 58

**When elected, §34-622** p. 58

### CORRUPTION

**Grounds for contest, §34-2001** p. 130

### COUNTIES

#### Board of county commissioners

Candidates for county commissioner

Declaration of candidacy,  
 §34-617 p. 56

#### Board of county commissioners — Cont'd

Qualifications for election as county  
 commissioner, §34-617 p. 56

When county commissioners elected,  
 §34-617 p. 56

#### Canvass of votes

*— See “CANVASS OF VOTES” heading*

#### Certificates of nomination or election,

§§34-1208, 34-1209 p. 95

#### Elections

Dates for holding, §34-106 p. 20

Electronic poll book  
 Authorized, §34-1106A p. 88  
 Defined, §34-111A p. 23

#### Emergency elections

Great public calamity, §34-106 p. 20

Number of elections in any county in any  
 calendar year

Limitation, §34-106 p. 20

Political subdivision with more than one  
 county

Modification of voting procedures,  
 §34-1413 p. 102

#### Recall elections

General provisions,  
 §§34-1701 to 34-1715 p. 105-114

Tie votes, §34-1210 p. 95

#### Officers

When elected candidates to take office,  
 §34-106 p. 20

#### Political subdivision with more than one county

Modification of voting procedures,  
 §34-1413 p. 102



# INDEX

## COUNTY ASSESSORS

### Candidates

- Declaration of candidacy, §34-621 *p. 57*
- Qualifications**, §34-621 *p. 57*
- When elected**, §34-621 *p. 57*

## COUNTY CLERKS

- Appeals from county clerk**, §34-215 *p. 28*
- Ballots**

- Duties as to, §§34-910, 34-911 *p. 76-76*

### Campaign Finance

- Duties as to, §67-6623 *p. 214*
- Statements
  - Examination, §67-6616 *p. 209*
  - Inspection, §67-6615 *p. 208*

### Chief county elections officer,

- §34-305 *p. 34*

### Conferences on administration of election laws, §34-204 *p. 25*

### Defined, §34-112 *p. 23*

### Judges of election

- Appointment by county clerk, §34-303 *p. 32*

### Noncompliance with election laws by county clerk

- Mandamus to enforce compliance, §34-213 *p. 27*
- Reports to prosecuting attorney, §34-212 *p. 27*

### Noncompliance with election laws by local county election officials

- Enforcement by county clerk, §34-214 *p. 28*

### Office of clerk

- Open as long as polls are open, §34-211 *p. 27*

### Political subdivisions

- Contract with county clerk to conduct election, §34-1401 *p. 98*
- County clerk administering election, §34-1401 *p. 98*
- Registration of voters
  - Duties as to, §34-1402 *p. 98*

### Powers relating to election laws,

- §§34-209, 34-210, 34-217 *p. 26-27, 29*

### Recount of ballots

- Application remitted to clerk, §34-2302 *p. 154*
- Order for recount, §34-2304 *p. 155*

### Retention of county election records,

- §34-217 *p. 29*

### Supervision of administration of election laws

- Duties as to, §§34-206, 34-208 *p. 25*

## COUNTY TREASURER

### Age

- Qualifications, §34-620 *p. 57*

### Candidates

- Declaration of candidacy, §34-620 *p. 57*
- Qualifications**, §34-620 *p. 57*
- When elected**, §34-620 *p. 57*

## CRIMES AND PUNISHMENTS

### Elections

- Aiding and abetting election offenses, §18-2312 *p. 187*
- Betting on elections, §18-2314 *p. 188*
- Bribery of electors, §18-2320 *p. 189*
- Electioneering at polls, §18-2318 *p. 189*
- Election offenses, §18-2315 *p. 188*
- Interference, §§18-2306, 18-2313 *p. 186, 188*
- Riotous conduct, §18-2313 *p. 188*

### Imprisonment

- Effect on civil rights, §18-310 *p. 183*
- Final discharge, §18-310 *p. 183*

### Intimidation, Corruption and Fraud

- Influence of elector, §18-2305 *p. 186*

### Official Neglect or Malfeasance

- Willful neglect or refusal, §18-2301 *p. 185*

### Swearing

- False swearing, §18-2302 *p. 185*
- Refusal to be sworn, §18-2303 *p. 185*

### Trespass and Malicious Injury to Property

- Placing posters or promotional material on public or private property without permission, §18-7029 *p. 191*

### Voting

- Adding votes, §18-2311 *p. 187*
- Ascertain voting, §18-2308 *p. 187*
- Booths
  - Placing placards, §18-2323 *p. 190*
- Illegal voting
  - Fraudulent voting, §18-2306 *p. 186*
  - Procuring illegal votes, §18-2304 *p. 185*
  - Repeat voting, §18-2307 *p. 186*
  - Unqualified voting, §18-2307 *p. 186*
- Influence of elector, §18-2319 *p. 189*

### Registration

- Fraudulent permissions, §18-2321 *p. 190*
- Illegal registration by voter, §18-2322 *p. 190*

### Results

- Change results, §18-2309 *p. 187*
- Destroy results, §18-2309 *p. 187*
- Forging or counterfeiting, §18-2310 *p. 187*
- Subtracting votes, §18-2311 *p. 187*

### Tampering

- Ballots, §18-2316 *p. 188*
- Certificates of nomination, §18-2316 *p. 188*
- Destroying or defacing supplies, §18-2317 *p. 189*



# INDEX

## DEBT

Retiring, §67-6610B *p. 205*

## DECLARATORY JUDGEMENTS

### Review of initiative and referendum measures by attorney general

Determination of constitutionality, §34-1809 *p. 123*

## DEATH

### Registration of voters

Correction of election register from reported deaths, §34-433 *p. 44*

## DEFINED TERMS

### Advocate

Transparent & Ethical Government, §74-603 *p. 221*

### Ballot

Machine voting, §34-2401 *p. 158*

### Ballot card

Machine voting, §34-2401 *p. 158*

### Ballot label

Machine voting, §34-2401 *p. 158*

### Ballot measure

Transparent & Ethical Government, §74-603 *p. 221*

### Body

Election contests, §34-2102 *p. 138*

### Candidate

Campaign Finance, §67-6602 *p. 195*  
Elections, §34-113 *p. 23*

Transparent & Ethical Government, §74-603 *p. 221*

### Combination election record and poll book

Elections, §34-111 *p. 22*

### Compensation

Campaign Finance, §67-6602 *p. 195*

### Contestee

Election contests, §34-2102 *p. 138*

### Contestor

Election contests, §34-2102 *p. 138*

### Contractor

Campaign Finance, §67-6602 *p. 195*

### Contribution

Campaign Finance, §67-6602 *p. 195*

### Costs

Elections, §34-2310 *p. 157*

### County clerk

Elections, §34-112 *p. 23*

### Election

Campaign Finance, §67-6602 *p. 195*  
Machine voting, §34-2401 *p. 158*

### Election campaign

Campaign Finance, §67-6602 *p. 195*

### Election contest

Election contests, §34-2102 *p. 138*

### Election official

Elections, §34-108 *p. 22*

## DEFINED TERMS — Cont'd

### Election register

Elections, §34-110 *p. 22*

### Electioneering communication

Campaign Finance, §67-6602 *p. 195*

### Elector

District court judges, §34-616 *p. 55*

Supreme court justices, §34-615 *p. 54*

### Electronic poll book

Elections, §34-111A *p. 23*

### Eligible for the office

Election contests, §34-2102 *p. 138*

### Employee

Campaign Finance, §67-6602 *p. 195*

### Executive official

Campaign Finance, §67-6602 *p. 195*

### Expenditure

Campaign Finance, §67-6602 *p. 195*

Transparent & Ethical Government, §74-603 *p. 221*

### General election

Elections, §34-101 *p. 19*

### Governing body

Machine voting, §34-2401 *p. 158*

### Incumbent

Elections, §§34-2002 *p. 132*

### Independent expenditure

Campaign Finance, §67-6602 *p. 195*

### Individual

Election contests, §34-2102 *p. 138*

### Judicial

District court judges, §34-616 *p. 55*

Supreme court justices, §34-615 *p. 54*

### Judicial nominating election

Elections, §34-117 *p. 24*

### Jurisdiction

District court judges, §34-616 *p. 55*

Supreme court justices, §34-615 *p. 54*

### Legislature

Election contests, §34-2102 *p. 138*

### Lobby

Campaign Finance, §67-6602 *p. 195*

### Lobbyist

Campaign Finance, §67-6602 *p. 195*

### Lobbyist's client

Campaign Finance, §67-6602 *p. 195*

### Lobbyist's employer

Campaign Finance, §67-6602 *p. 195*

### Local government office

Campaign Finance, §67-6602 *p. 195*

### Measure

Campaign Finance, §67-6602 *p. 195*

Machine voting, §34-2401 *p. 158*

### Model

Machine voting, §34-2401 *p. 158*

### Nonbusiness entity

Campaign Finance, §67-6602 *p. 195*

### Office

Election contests, §34-2102 *p. 138*

# INDEX

## DEFINED TERMS — Cont'd

### Parties

Election contests, §34-2102 *p. 138*

### Party

Election contests, §34-2102 *p. 138*

### Person

Campaign Finance, §67-6602 *p. 195*

### Political committee

Campaign Finance, §67-6602 *p. 195*

### Political party, §34-501

Elections, §34-109 *p. 22*

### Political treasurer

Campaign Finance, §67-6602 *p. 195*

### Precinct

Machine voting, §34-2401 *p. 158*

### Presidential primary

Elections, §34-102 *p. 19*

### Presiding Officer

Election contests, §34-2102 *p. 138*

### Primary election

Elections, §34-102 *p. 19*

### Property or resources

Transparent & Ethical Government, §74-603 *p. 221*

### Public entity

Transparent & Ethical Government, §74-603 *p. 221*

### Public funds

Transparent & Ethical Government, §74-603 *p. 221*

### Public office

Campaign Finance, §67-6602 *p. 195*

### Public official

Transparent & Ethical Government, §74-603 *p. 221*

### Qualified elector

Elections, §34-104 *p. 19*

### Registered elector

Elections, §34-105 *p. 19*

### Residence

Elections, §34-107 *p. 21*

### Special election

Elections, §34-103 *p. 19*

### State Agency

Transparent & Ethical Government, §74-603 *p. 221*

### Tally book

Elections, §34-114 *p. 23*

### Vote tally system

Machine voting, §34-2401 *p. 158*

### Voting machine, §34-2401

*p. 158*

## DEPOSITIONS

### Contests

Legislative and state executive offices,  
§34-2110 *p. 143*

## DISABILITIES, PERSONS WITH

Assistance to voters, §34-1108 *p. 89*

Marking absentee ballots,  
§34-1003 *p. 81*

### Voting machines or vote tally systems

Instruction and assistance for voters with  
disabilities, §34-2033 *p. 138*

## DISCOVERY

Court may order, §34-2033 *p. 138*

## DISTRICT COURTS

### Clerks of district court

#### Candidates

Declaration of candidacy,  
§34-619 *p. 57*

Qualifications, §34-619 *p. 57*

When elected, §34-619 *p. 57*

### Elections

Qualifications, §34-616 *p. 55*

Time, §34-616 *p. 55*

### Judges

#### Ballots

Nonpartisan ballots, §34-905 *p. 74*

#### Candidates

Declaration of candidacy, §34-616 *p. 55*

Qualifications, §34-616 *p. 55*

When elected, §34-616 *p. 55*

## DISTRICTS

### Special districts

Political subdivisions,  
§§34-1401 to 34-1411 *p. 98-101*

#### Recall elections

General provisions,  
§§34-1701 to 34-1715 *p. 105-114*

## EDUCATION

### School elections

Lists of registered voters

Furnishing to school districts,  
§34-437B *p. 46*

#### Registration of voters

Election day registration

Applicability to school elections,  
§34-408A *p. 38*

### Superintendent of public instruction,

§34-613 *p. 53*

— See also "SUPERINTENDENT OF

PUBLIC INSTRUCTION" heading

## ELECTIONEERING

### COMMUNICATIONS

Foreign electioneering communications

prohibited, §67-6610D *p. 206*

Statements, §67-6628 *p. 217*

# INDEX

## ELECTIONS

### Dates

- Dates held, §34-601 p. 49
- Limitations upon elections, §34-106 p. 20

### General elections

- Ballots, §34-906 p. 75
  - Sample ballots
    - Secretary of state to forward to counties, §34-909 p. 75
- Constitutional amendments
  - Submission to voters, §34-101 p. 19
- Defined, §34-101 p. 19
- Notice, §34-602 p. 50
- Offices to be filled, §34-101 p. 19
- Time of elections, §34-601 p. 49

### Initiative and referendum elections,

- §§34-1801 to 34-1823 p. 114-130
  - Arguments concerning measures, §34-1812A p. 126
  - Rebuttal arguments, §34-1812B p. 126
- Ballots
  - Title, §34-1809 p. 123
    - Printing and designation of ballot titles on official ballots, §34-1810 p. 124
- Canvass of votes, §34-1813 p. 127
- Certification of questions to be submitted to people for vote, §34-603 p. 50
- Injunctions, §34-1808 p. 122
- Manner of voting, §34-1811 p. 125
- Petitions
  - Binding of petition and signature sheets, §34-1806 p. 121
  - Form, §34-1801A p. 114
  - Legislative purpose, §34-1801 p. 114
  - Number of signatures required, §34-1805 p. 120
  - Printing of petition, §34-1804 p. 119
  - Refusal to accept petition
    - Mandamus, §34-1808 p. 122
  - Removal of signatures, §34-1803B p. 119
  - Signature sheets
    - Printing, §34-1804 p. 119
  - Time for filing, §34-1803 p. 119
  - Time requirements, §34-1802 p. 118
  - Verification of petition and signature sheets, §34-1807 p. 121
  - Who may sign, §34-1814 p. 128
- Prohibited acts
  - Circulating petition with false, forged or fictitious names, §34-1817 p. 129
  - Failure to disclose material provisions, §34-1815 p. 128
  - False affidavit, §34-1818 p. 129
  - False return, certification or affidavit by public official, §34-1819 p. 129
  - False statements concerning petition, §34-1815 p. 128

## ELECTIONS — Cont'd

### Initiative and referendum elections — Cont'd

- Prohibited acts — Cont'd
  - Filing petition with false signatures, §34-1816 p. 129
  - Penalties, §34-1822 p. 130

### General elections — Cont'd

- Prohibited acts — Cont'd
  - Signing petition more than once or when not qualified, §34-1820 p. 129
  - Violations of provisions generally, §34-1821 p. 129
  - Wrongful signing of petition, §34-1814 p. 128
- Review of measures by attorney general, §34-1809 p. 123
- Severability of chapter, §34-1823 p. 130
- Voters' pamphlet, §34-1812C p. 127
- When held, §34-1803 p. 119

### Judges of election, §34-303

— See also "JUDGES" heading

### Judicial nominating elections

- Defined, §34-117 p. 24

### Municipal elections

- Political subdivisions generally, §§34-1401 to 34-1411 p. 98-101

### Oaths

- County clerks
  - Power to administer oaths, §34-209 p. 26
- Judges
  - Power to administer, §34-1104 p. 87

### Officers

- Confidentiality of information
  - Officers not to divulge information, §34-1110 p. 89
- Definition of "election official," §34-108 p. 22

### Poll book, electronic

- Authorized, §34-1106A p. 88
- Defined, §34-111A p. 23

### Presidential preference primary

— See within this heading, "Primary elections"

### Primary elections

- Absentee voting
  - Application for absentee ballot, §§34-1002, 34-1003 p. 79-81
- Ballots, §34-904 p. 72
  - Preparation of primary ballots, §34-713 p. 66
- Presidential primary
  - Listing of candidates, §34-732 p. 69
  - Removal of candidate, §34-733 p. 69
  - Sample form, §34-712 p. 66
- Contests, §§34-2028 to 34-2036 p. 137-138
- Defined, §34-102 p. 19

# INDEX

## ELECTIONS — Cont'd

### Primary elections — Cont'd

- Eligibility to vote, §34-904A p. 73
- Unaffiliated electors, §34-904A p. 73
- Independent candidates not to be voted on at primary elections, §34-703 p. 62
- Nomination at primary, §34-703 p. 62
- Notice, §34-602 p. 50

### Presidential preference primary

- Candidates, listing on ballot, §34-732 p. 69
- Certification of results, §34-735 p. 70
- Conduct and canvass procedures, §34-737 p. 70
- Cost of holding, §34-738 p. 70
- Definition, §34-102 p. 19

- Delegates to national convention, §34-736 p. 70
- Eligibility to vote, §34-904A p. 73
- General procedures, §34-731 p. 69

- Removal of candidate from ballot, §34-733 p. 69
- Rules and regulations, §34-740 p. 70
- Time for holding, §§34-106, 34-601 p. 20, 49
- Voting, §34-734 p. 69

### Publication

- Names of candidates to appear on primary ballot, §34-713 p. 66
- Time of elections, §34-601 p. 49
- Presidential primary, §§34-106, 34-601 p. 20, 49

### Unaffiliated electors

- Eligibility to vote, §34-904A p. 73
- Write in candidates

- Requirements, §34-702 p. 62

### Recall elections,

- §§34-1701 to 34-1715 p. 105-114

- Canvass of votes, §§34-1710, 34-1711 p. 111
- Conduct of election, §34-1710 p. 111
- Continuation in office, §34-1709 p. 111

### Felonies

- Prohibited acts, §34-1714 p. 113

### General election laws

- Controlling effect, §§34-1710, 34-1712 p. 111, 112

- Injunctions, §34-1715 p. 114

### Mandamus

- Refusal to accept petition, §34-1715 p. 114

- Officers subject to recall, §34-1701 p. 105

- Order for election, §34-1707 p. 110

### Petitions

- Examination and certification of signatures, §34-1706 p. 110
- Form, §34-1703 p. 106
- Limitations on filing, §34-1713 p. 112
- Number of signatures required, §34-1702 p. 105

## ELECTIONS — Cont'd

### Recall elections — Cont'd

#### Petitions — Cont'd

- Printing, §34-1704 p. 108
- Prohibited acts as to, §34-1714 p. 113

#### Refusal to accept petition

- Mandamus, §34-1715 p. 114

- Removal of signatures, §34-1713 p. 112

#### Signature sheets

- Printing, §34-1704 p. 108

- Verification on, §34-1705 p. 109

- Sufficiency of petition, §34-1707 p. 110

- Prohibited acts, §34-1714 p. 113

#### Resignation

- Effect, §34-1707 p. 110

- When election held, §34-1707 p. 110

### Referendum elections

- See within this heading, “Initiative and referendum elections”

### Special elections

- Dates held, §34-601 p. 49
- Defined, §34-103 p. 19
- Notice, §34-602 p. 50

- Time of elections, §34-601 p. 49

### Time of elections

- Calendar days used in computation of time, §34-116 p. 23

- General elections, §34-601 p. 49

- Primary elections, §34-601 p. 49

- Special elections, §34-601 p. 49

- When officers elected, §§34-601 to 34-625 p. 49-59

### Voting procedures modification,

- §34-1413 p. 102

- Watchers, §34-304 p. 33

- Write in candidates, §§34-702, 34-702A p. 62, 62

- Political subdivisions, §34-1407 p. 101

## ELECTIONEERING

### COMMUNICATIONS

#### Foreign electioneering communications

- prohibited, §67-6610D p. 206

- Statements, §67-6628 p. 217

## ELECTORS

### Arrest

- Privilege of electors from arrest, §34-401 p. 35

- Assistance to voters, §34-1108 p. 89

- See also “ASSISTANCE” heading

### Disqualified electors

- Not permitted to vote, §34-403 p. 36

### Presidential electors

- See “PRESIDENTIAL ELECTORS” heading

### Qualifications

- Handbook of elector’s qualifications, §34-1112 p. 90

# INDEX

## ELECTORS — Cont'd

### Qualifications — Cont'd

- Qualifications of voters, §34-402 *p. 36*
- Residence, §34-402 *p. 36*
- Gain or loss of residence by reason of absence from state, §34-405 *p. 37*

### Qualified electors

- Age, §34-402 *p. 36*
- Definition of “qualified elector,” §34-104 *p. 19*

### Unaffiliated electors

- Absentee voting, §§34-1002, 34-1003 *p. 79, 81*
- Application for registration, §34-411 *p. 40*
- Mail ballot precincts, §34-308 *p. 34*
- Primary elections, §§34-411A, 34-904A, 34-1002 *p. 41, 73, 79*
- Registration of electors, §34-404 *p. 36*

## EXPENDITURES

### Identification of source, §67-6614 *p. 208*

### Independent Expenditures

- Foreign independent expenditures prohibited, §67-6610D *p. 206*
- Statements of, §67-6611 *p. 206*

### Nonbusiness Entity, §67-6606 *p. 200*

### Payment to signature gatherers, §67-6612 *p. 207*

### Reports, §67-6607 *p. 201*

- Fees for late filing, §67-6625A *p. 215*

### Statement of no contribution or expenditure, §67-6609 *p. 202*

## FELONIES

### Bond issues

- Conviction as grounds for contest, §34-2001 *p. 130*

### Identification to be shown before receiving ballot

- Affidavit in lieu of identification, false or erroneous information, §34-1114 *p. 90*

### Initiative and referendum elections

- Violations of provisions, §34-1821 *p. 129*

### Legislative and state executive offices

- Conviction as grounds for contest, §34-2104 *p. 139*

### Privilege of electors from arrest, §34-401 *p. 35*

### Recall elections

- Prohibited acts, §34-1714 *p. 113*

## FINES AND OTHER PENALTIES

### Initiative and referendum elections

- Petitions
  - Wrongful signing, §34-1814 *p. 128*
- Violations of provisions generally, §34-1822 *p. 130*

## FORMS

### Constitutional conventions

- Election of delegates
  - Ballots, §34-2206 *p. 151*
  - Declarations of candidates, §34-2205 *p. 149*

### Elections

- Initiative elections
  - Petitions, §34-1801 *p. 114*
  - Verification of petition and signature sheets, §34-1807 *p. 121*
- Recall elections
  - Ballot, §34-1708 *p. 111*
  - Petitions, §34-1703 *p. 106*
  - Verification on sheets for signatures, §34-1705 *p. 109*
- Referendum elections
  - Petitions
    - Verification of petition and signature sheets, §34-1807 *p. 121*

## FRAUD

### Contests

- Grounds for contest, §34-2001 *p. 130*

## GENDER

### References to male include female,

- §34-115 *p. 23*

## GENERAL ELECTIONS

- See “ELECTIONS - General elections” subheading

## GOVERNOR

### Candidates

- Declaration of candidacy, §34-607 *p. 51*

### Qualifications, §34-607 *p. 51*

### Recall elections

- General provisions, §§34-1701 to 34-1715 *p. 105-114*
- When governor elected, §34-607 *p. 51*

## HEARINGS

### Registration of voters

- Refusal of registration, §34-412 *p. 41*

## HIGHWAY DISTRICTS

### Commissioners

- Ballots
  - Nonpartisan ballots, §34-905A *p. 74*
  - One nomination, §34-905A *p. 74*

### Elections

- Administration, §34-1401 *p. 98*

### Single county wide highway districts

- Highway commissioners
  - Candidates, declaration of candidacy, §34-625 *p. 59*
  - Qualifications, §§34-625, 34-625A *p. 59, 60*
  - When elected, §34-625 *p. 59*

# INDEX

## INDEPENDENT EXPENDITURES

### Foreign independent expenditures

- prohibited, §67-6610D *p. 206*
- Statements of, §67-6611 *p. 206*

## INITIATIVE ELECTIONS.

### §§34-1801 TO 34-1823 *P. 114-130*

— See also “*ELECTIONS - Initiative and referendum elections*” subheading

## INJUNCTIONS

- Initiative and referendum elections,  
§34-1808 *p. 122*
- Recall elections, §34-1715 *p. 114*

## JUDGES

### Canvassing of returns of judicial elections, §34-1217 *p. 97*

### Contests

- Jurisdiction of contests over judicial  
offices, §34-2004 *p. 132*

### Judges of election, §34-303 *p. 32*

- Appointment, §34-303 *p. 32*

### Ballot boxes

- Opening ballot boxes, §34-1103 *p. 87*

### Challenge of voters

- Power to challenge any voters,  
§34-1104 *p. 87*

### Contests

### Misconduct

- Grounds of contest, §34-2001 *p. 130*

### Legislative and state executive offices

- Grounds for contest,  
§34-2104 *p. 139*

- When misconduct sufficient to set  
aside election, §34-2107 *p. 141*

- When sufficient to set aside election,  
§§34-2003, 34-2107 *p. 141*

- Number, §34-303 *p. 32*

### Oaths

- Power to administer, §34-1104 *p. 87*

- Students, appointment, §34-303 *p. 32*

## LEGISLATURE

### Elections

- Designation of positions, §34-614 *p. 53*

### Recall elections

- General provisions,  
§§34-1701 to 34-1715 *p. 105-114*

### House of representatives

### Candidates

- Declaration of candidacy,  
§§34-614 *p. 53*

- Qualifications, §34-614 *p. 53*

- When elected, §34-614 *p. 53*

## LEGISLATURE — Cont'd

### Senate

### Candidates

- Declaration of candidacy,  
§34-614 *p. 53*

- Qualifications, §34-614 *p. 53*

- When elected, §34-614 *p. 53*

## LEGISLATIVE AND STATE EXECUTIVE OFFICES

### Affidavit

- Filing, §34-2122 *p. 148*

### Ballots and poll books

- Examination, §34-2113 *p. 144*

### Calendar

- Priority on court's calendar,  
§34-2125 *p. 148*

### Contest papers delivered to presiding

### officers, §34-2114 *p. 145*

- Notice of receiving papers,  
§34-2115 *p. 145*

- Opening and custody of papers,  
§34-2116 *p. 145*

### Depositions, §§34-2108, 34-2110, 34-2111 *p. 141-143*

### Discovery

- Court may order, §34-2125 *p. 148*

### Primary elections

- Court may order, §34-2125 *p. 148*

### Evidence

- Preservation, §34-2117 *p. 146*

### Jurisdiction,

### §§34-2103, 34-2121 *p. 139, 147*

- Primary elections, §34-2121 *p. 147*

### Misconduct of election judges

- Grounds of contest, §34-2104 *p. 139*

- When sufficient to set aside election,  
§34-2107 *p. 141*

### Misdemeanor

- Refusal or neglect to produce papers,  
§34-2112 *p. 144*

### Notice, §34-2108 *p. 141*

### Contest papers delivered

- to presiding officers  
Notice of receiving papers,  
§34-2115 *p. 145*

### Officers

- Fees, §34-2118 *p. 146*

### Penalties

- Disobedience of subpoena,  
§34-2110 *p. 143*

### Preservation of evidence,

### §34-2117 *p. 146*

### Primary elections

- Grounds, §34-2120 *p. 147*

- Jurisdiction, §34-2121 *p. 147*

### Production of papers, §34-2112 *p. 144*

- Refusal or neglect to produce,  
§34-2112 *p. 144*

# INDEX

## LEGISLATIVE AND STATE EXECUTIVE

### OFFICES — Cont'd

- Remedies**, §34-2126 *p. 148*
- Form of relief, §34-2119 *p. 147*

### Subpoenas

- Application for, §34-2110 *p. 143*
- Disobedience
  - Penalty, §34-2110 *p. 143*
- Issuance, §34-2110 *p. 143*

### Witnesses

- Deposition, §34-2108, 34-2110, 34-2111 *p. 141-143*
- Examination of witnesses, §34-2110 *p. 143*
- Fees, §34-2110 *p. 143*
- Subpoenas, §§34-2110 *p. 143*

## LIEUTENANT GOVERNOR

### Candidates

- Declaration of candidacy, §34-608 *p. 51*

- Qualifications**, §34-608 *p. 51*

### Recall elections

- General provisions, §§34-1701 to 34-1715 *p. 105-114*

- When elected**, §34-608 *p. 51*

## LOBBYISTS

- Duties of**, §67-6621 *p. 212*
- Docket**, §67-6622 *p. 213*

- Employment of unregistered persons**, §67-6620 *p. 212*

- Registration**, §67-6617 *p. 209*

- Exemption from, §67-6618 *p. 210*

- Reporting**, §67-6619 *p. 211*

- Fees for late filing, §67-6625A *p. 215*

- State entities, §67-6619A *p. 212*

## MAIL

- Mail registration**, §34-410 *p. 39*

## MANDAMUS

- Enforcement of compliance with election laws by county clerk**, §34-213 *p. 27*

### Initiative and referendum elections

- Refusal to accept petition, §34-1808 *p. 122*

### Recall elections

- Refusal to accept petition, §34-1715 *p. 114*

## MILITARY AFFAIRS

### Registration of voters

- Registration not to be cancelled while elector serving in armed forces, §34-420 *p. 43*

### Residence, gain or loss of

- Absence from state due to military service, §34-405 *p. 37*

## MISDEMEANORS

### Legislative and state executive offices

- Disobedience of subpoena, §34-2110 *p. 143*
- Refusal or neglect to produce papers, §34-2112 *p. 144*

## MUNICIPAL CORPORATIONS

### Political subdivisions generally,

- §§34-1401 to 34-1411 *p. 98-101*

### Recall elections

- General provisions, §§34-1701 to 34-1715 *p. 105-114*

### Registration of electors

- Election day registration
  - Applicability to municipal elections, §34-408A *p. 38*

## NOTICE

### Contests

- Legislative and state executive offices, §34-2108 *p. 141*
- Contest papers delivered to presiding officers
  - Notice of receiving papers, §34-2115 *p. 145*

- General elections**, §34-602 *p. 50*

- Political subdivisions**, §34-1406 *p. 100*

- Declarations of candidacy
  - Filing deadline, §34-1405 *p. 100*

### Polling places

- Changing polling place, §34-1102 *p. 87*

### Presidential electors

- Vacancies
  - Election to fill vacancy, §34-1506 *p. 104*

- Primary elections**, §34-602 *p. 50*

### Publication

- Primary, general or special elections, §34-602 *p. 50*

- Recount of ballot**, §34-2304 *p. 155*

- Special elections**, §34-602 *p. 50*

### Voting machines or vote tally systems

- Locations of voting machines and polling places, §34-2417 *p. 165*

## PARTIES

- See “POLITICAL PARTIES” heading

## PENALTIES

### Campaign Finance

- Penalties, §§67-6625 to 67-6625A *p. 215*

### Transparent and Ethical Government,

- §74-606 *p. 223*



# INDEX

## PETITIONS

### Candidates

- Declaration of candidacy
  - Filing fee
    - Petition in lieu of, §34-626 p. 60
  - Independent candidates
    - Petition to accompany,
      - §§34-708, 34-708A p. 64-65

### Initiative and referendum elections

- Binding of petition and signature sheets,
  - §34-1806 p. 121
- Form, §34-1801A p. 114
- Number of signatures required,
  - §34-1805 p. 120
- Printing of petition, §34-1804 p. 119
- Prohibited acts concerning petitions,
  - §§34-1814 to 34-1821 p. 128-129
  - Penalty, §34-1822 p. 130
- Refusal to accept petition
  - Mandamus, §34-1808 p. 122
- Removal of signatures,
  - §34-1803B p. 119
- Severability of chapter, §34-1823 p. 130
- Signature sheets
  - Printing, §34-1804 p. 119
- Statement of purpose, §34-1801 p. 114
- Time requirements, §34-1802 p. 118
- Time for filing, §34-1803 p. 119
- Verification of petition and signature sheets, §34-1807 p. 121
- Who may sign, §34-1814 p. 128

### Nominating petitions

- Form
  - Secretary of state to prescribe,
    - §34-701 p. 61
- United States senators, §34-604 p. 50

### Recall elections

- Examination and certification of signatures, §34-1706 p. 110
- Form, §34-1703 p. 106
- Limitations on filing, §34-1713 p. 112
- Number of signatures required,
  - §34-1702 p. 105
- Printing, §34-1704 p. 108

### Recall elections — Con'td

- Prohibited acts as to, §34-1714 p. 113
- Refusal to accept petition
  - Mandamus, §34-1715 p. 114
  - Removal of signatures, §34-1713 p. 112
- Signature sheets
  - Printing, §34-1704 p. 108
  - Verification on, §34-1705 p. 109
- Sufficiency of petition, §34-1707 p. 110

### Referendum elections

- See "Initiative and referendum elections" under this heading

## POLITICAL PARTIES

### Changing political parties, §34-627 p. 61

### Conventions, §34-707 p. 64

- Delegates to state convention
  - Selection, §34-507 p. 49

### County central committees, §34-502 p. 47

- Chairman, §34-502 p. 47
- Vacancy in office
  - Filling, §34-502 p. 47
- Composition, §34-502 p. 47
- Duties, §34-505 p. 49
- Officers, §34-502 p. 47
- Powers, §34-505 p. 49

### Creation

- Procedure, §34-501 p. 46

### Declaration of candidacy

- Notification to parties, §34-706 p. 64

### Defined, §§34-501 p. 46

### Holders of elective office changing parties, §34-627 p. 61

### Legislative district central committees,

- §34-503 p. 48
- Composition, §34-503 p. 48
- Duties, §34-506 p. 49
- Officers, §34-503 p. 48
- Powers, §34-506 p. 49

### Organization of political parties,

- §§34-501 to 34-507 p. 46-49

### Precinct committeemen

- Candidates for precinct committeemen
  - Declaration of candidacy,
    - §34-624 p. 58
- Precinct committeemen and voters'
  - delegate to party's county and district conventions, §34-624A p. 59
  - Qualifications, §34-624 p. 58
  - When elected, §34-624 p. 58

### State central committees

- Composition, §34-504 p. 49

## POLITICAL SUBDIVISIONS

### Absentee voting, §34-1408 p. 101

### Administration of elections, §34-1401 p. 98

### Candidates

- Declaration of candidacy,
  - §34-1404 p. 99
- Notice of filing deadline,
  - §34-1405 p. 100
- Qualifications, verification, certification,
  - §34-1404 p. 99
- Withdrawal, §34-1405A p. 100
- Write in candidates, §34-1407 p. 101

### Canvass of votes, §34-1410 p. 101

### Certificates of election, §34-1410 p. 101

### Conduct of elections,

- §§34-1403, 34-1409 p. 99, 101
- Contract with county clerk for,
  - §34-1401 p. 98



# INDEX

## POLITICAL SUBDIVISIONS — Cont'd

### County clerks

- Contract with county clerk to conduct election, §34-1401 *p. 98*
- Registration of voters
  - Duties as to, §34-1402 *p. 98*

### Expenses of election

- County payment of election expenses, §34-1411 *p. 101*

### Notice, §34-1406

- Declarations of candidacy
  - Filing deadline, §34-1405 *p. 100*

### Polling places, §34-1409

### Qualifications of electors

- Uniformity, §34-1403 *p. 99*

### Recall elections,

- §§34-1701 to 34-1715 *p. 105-114*

### Registration of voters, §34-1402

### Secretary of state

- Directives and instructions to election officials, §34-1401 *p. 98*
- Election calendar
  - Compilation, §34-1405 *p. 100*

### Write in candidates, §34-1407

## POLITICAL TREASURER

### Accounts of, §67-6604

### Appointment of, §67-6603

### Special provisions, §67-6608

## POLLING PLACES

### Changing polling places

- Proclamation and notice, §34-1102 *p. 87*

### Closing of polls, §34-1101

### Designation of precinct polling places, §34-302

### Opening of polls, §34-1101

### Political subdivisions, §34-1409

### Precincts

- Designation of precinct polling places, §34-302 *p. 32*

### Voting machines or vote tally systems.

- Closing of polls, §34-2422 *p. 166*
- Notice of location of polling places, §34-2417 *p. 165*
- Preparation of polling place for election, §34-2415 *p. 164*

## PRECINCTS

### Boundaries

- Changes
  - Alteration of registration cards, §34-417 *p. 42*
- Maintenance of boundaries, §34-307 *p. 34*
- Requirements, §34-306 *p. 34*
- Same as legislative districts, §34-301 *p. 31*

## PRECINCTS — Cont'd

### Election precincts,

- §§34-301 to 34-308 *p. 31-34*

### Establishment, §34-301

### Lists of precincts

- County clerk to furnish to secretary of state, §34-301 *p. 31*

### Mail ballot precincts, §34-308

### Maps

- County clerks to furnish to secretary of state, §34-301 *p. 31*

### Polling places

- Designation of precinct polling places, §34-302 *p. 32*

## PRESIDENTIAL ELECTORS

### Candidates

- Certification of candidates for, §34-711 *p. 66*

- Independent candidates, §34-711A *p. 66*

### Certificates of election, §34-1501

### Compensation, §34-1507

### Meeting of electors, §34-1503

### Qualifications, §34-606

### Vacancies, §34-1504

- Filling, §34-1504 *p. 104*

- Notification of election to fill vacancy, §34-1506 *p. 104*

- Tie vote, §34-1505 *p. 104*

### When elected, §34-1502

## PRESIDENTIAL PREFERENCE

### PRIMARY

- See “ELECTIONS - Primary elections” subheading

### PRIMARY ELECTIONS

- See “ELECTIONS - Primary elections” subheading

## PROSECUTING ATTORNEYS

### Candidates

- Declaration of candidacy, §34-623 *p. 58*

### Noncompliance with election laws by county clerk

- Report to prosecuting attorney, §34-212 *p. 27*

- Action by prosecuting attorney on, §34-212 *p. 27*

### Qualifications, §34-623

### When elected, §34-623

## PUBLIC FUNDS

### Prohibited use of, §74-604

- Exclusions, §67-6625A *p. 215*

# INDEX

## PUBLICATION

### Notice

- Political subdivisions, §34-1406 p. 100
- Primary, general or special elections, §34-602 p. 50

### Primary elections

- Names of candidates to appear on primary ballot, §34-713 p. 66

## RECALL ELECTIONS

### General provisions,

- §§34-1701 to 34-1715 p. 105-114
- See also “ELECTIONS - Recall elections” subheading

## RECORDS

### Ballots

- Absentee ballots
- Applications for, §34-1011 p. 85
- Number of ballots printed and furnished, §34-910 p. 76

- Retention, §34-217 p. 29

## RECOUNT OF BALLOTS

- §§34-2301 TO 34-2313 p. 154-157

### Appeals

- Candidate disagreeing with recount results, §34-2308 p. 156

- Application for, §34-2301 p. 154

- Precincts to be specified, §34-2302 p. 154
- Remittance to accompany, §34-2302 p. 154

### Attorney general

- Impoundment of ballots, §34-2303 p. 155
- Order for recount, §34-2304 p. 155

### Automated tabulation systems

- Recount procedures, §34-2313 p. 157

### Costs

- Candidate relieved of costs where difference revealed by recount, §34-2306 p. 155
- Defined, §34-2310 p. 157
- Payment, §34-2309 p. 157

### County clerks

- Order for recount, §34-2304 p. 155

### Difference revealed by recount

- Candidate relieved of costs, §34-2306 p. 155

### Disagreement with recount results,

- §34-2308 p. 156

- Free recount, §34-2309 p. 157

### General recount

- When ordered, §34-2307 p. 156

## RECOUNT OF BALLOTS — Con'td

### Impoundment of ballots by attorney

- general, §34-2303 p. 155

- Manner of recounting, §34-2305 p. 155

- Notice, §34-2304 p. 155

- Order for recount, §34-2304 p. 155

- General recount

- When ordered, §34-2307 p. 156

- Procedure, §34-2304 p. 155

- When general recount ordered, §34-2307 p. 156

## REFERENDUM ELECTIONS

- See “ELECTIONS - Initiative and referendum elections” subheading

## REGISTRATION

- See “VOTER REGISTRATION” heading

## RESIDENCE

- Defined, §34-107 p. 21

- Qualifications for voting, §34-402 p. 36

- Absence from state

- Gain or loss of residence by reason of absence from state, §34-405 p. 37

### Registration of voters

- Change of residence
- Reregistration, §34-413 p. 42

## RULES AND REGULATIONS

### Primary elections

- Presidential preference primary, §34-740 p. 70

- Voting machines or vote tally systems, §34-2411 p. 163

## SECRETARY OF STATE

- Appeals from secretary of state, §34-215 p. 28

### Ballots

- Form and contents
- Secretary of state to prescribe, §34-903 p. 71

### Campaign Finance

- Duties as to, §67-6623 p. 214

### Statements

- Examination, §67-6616 p. 209

- Inspection, §67-6615 p. 208

### Candidates

- Declaration of candidacy, §34-609 p. 52

- Chief election officer, §34-201 p. 24

- Duties relating to election laws, §§34-202, 34-205 p. 24, 25

- Assistance and advice to county clerks, §34-203 p. 25

- Conferences with county clerks on administration of election laws, §34-204. p. 25

# INDEX

## SECRETARY OF STATE — Cont'd

- Grievance procedure**
  - Rules establishing, §34-216. p. 29
- Handbook of elector's qualifications**
  - Duty to prepare, §34-1112 p. 90
- Lists of registered electors.**
  - Statewide list, development and implementation, §34-437A. p. 45
- Lobbyists**
  - Docket of, §67-6622 p. 213
- Political subdivisions**
  - Directives and instructions to elections officials, §34-1401 p. 98
  - Election calendar
    - Compilation, §34-1405 p. 100
- Presidential preference primary**
  - Rulemaking, §34-740 p. 70
- Qualifications, §34-609 p. 52**
- Recall elections**
  - General provisions, §§34-1701 to 34-1715 p. 105-114
- Voting machines or vote tally systems**
  - Examination of machines prior to adoption, §34-2409 p. 160
  - Rules and regulations, §34-2411 p. 163
- When elected,**
  - §34-609 p. 52

## SERVICE OF PROCESS

- Contests, §34-2016 p. 134**

## SHERIFFS

- Candidates**
  - Declaration of candidacy, §34-618 p. 56
- Qualifications, §34-618 p. 56**
- When elected, §34-618 p. 56**

## SPECIAL ELECTIONS

- See *"ELECTIONS - Special elections"* subheading

## STATE CONTROLLER

- Candidates**
  - Declaration of candidacy, §34-610 p. 52
- Qualifications, §34-610 p. 52**
- Recall elections**
  - General provisions, §§34-1701 to 34-1715 p. 105-114
- When elected, §34-610 p. 52**

## STATE TREASURER

- Candidates**
  - Declaration of candidacy, §34-611 p. 52
- Qualifications, §34-611 p. 52**
- Recall elections**
  - General provisions, §§34-1701 to 34-1715 p. 105-114
- When elected, §34-611 p. 52**

## SUBPOENAS

- Contests**
  - Witnesses, §34-2014 p. 134

## SUNSHINE LAWS

- Appointment of Political Treasurer,** §67-6603 p. 199
- Certification of statements,** §67-6624 p. 215
- Commercial Reporting, §67-6607 p. 201**
- Generally, §67-6601 to §67-6630 p. 195-217**
- Penalties, §67-6625 p. 215**
  - Fees for late filing, §67-6625A p. 215
- Persuasive Polls, §67-6627 p. 216**
- Political statements**
  - Publication or distribution of, §67-6614A p. 208

## SUPERINTENDENT OF PUBLIC INSTRUCTION

- Candidates**
  - Declaration of candidacy, §34-613 p. 53
- Recall elections**
  - General provisions, §§34-1701 to 34-1715 p. 105-114
- Qualifications, §34-613 p. 53**
- When elected, §34-613 p. 53**

## SUPREME COURT OF IDAHO

- Ballots**
  - Nonpartisan ballots, §34-905 p. 74
- Candidates**
  - Declaration of candidacy, §34-615 p. 54
- Certificate of elections, §34-1217 p. 97**
- Qualifications, §34-615 p. 54**
- When justices elected, §34-615 p. 54**

## TAXING DISTRICTS

- Disclosures in elections to authorize levy,** §34-439A p. 46
- Governing board member elected for term beyond next election date,** §34-1412 p. 102
- Term of office of governing board member,** §34-1412 p. 102

## TREASON

- Privilege of electors from arrest,** §34-401 p. 35

## UNIVERSITIES AND COLLEGES

- Residence, gain or loss of**
  - Student's absence from state while at an institution of learning, §34-405 p. 37

# INDEX

## VOTER REGISTRATION

### Absentee registration

Elector absent from home precinct,  
§34-410 *p. 39*

Overseas citizens  
Uniformed and overseas citizens,  
§34-410A *p. 40*

Uniformed and overseas citizens,  
§34-410A *p. 40*

### Applications for registration, §34-416 *p. 42*

Changes in boundaries of precinct  
Alteration of registration application,  
§34-417 *p. 42*

Contents, §34-411 *p. 40*

Party affiliation, changing §34-411A *p. 41*

Procedure upon, §34-407 *p. 37*

Weekly review of new registrations,  
§34-418 *p. 42*

### Cancellation of registration

Armed forces  
Registration not to be cancelled  
while elector serving in armed forces,  
§34-420 *p. 43*

### Challenges of entries in election register, §34-431 *p. 43*

Correction of election register from  
challenges, §34-432 *p. 43*

### Change of residence

Reregistration, §34-413 *p. 42*

### Combination election record and poll book, §34-111 *p. 22*

Defined, §34-111 *p. 22*

Signing by elector, §34-1106 *p. 88*

Transmission to county clerk after count  
of votes, §34-1204 *p. 94*

### Confidentiality

Registration cards, §34-416 *p. 42*

### Correction of election register

Challenges at election, §34-432 *p. 43*  
Deaths

Reported deaths, §34-433 *p. 44*

Retention of notices and correspondence  
relating to, §34-434 *p. 44*

### Death

Correction of election register from  
reported deaths, §34-433 *p. 44*

### Definition of “registered elector,”

§34-105 *p. 19*

Election day registration, §34-408A *p. 38*

### Election register

Defined, §34-110 *p. 22*

Electors not voting for four years,  
§34-435 *p. 44*

### Electronic poll book

Authorized, §34-1106A *p. 88*

Defined, §34-111A *p. 23*

## VOTER REGISTRATION — Cont’d

### Lists of registered voters

Restrictions on furnishing, §34-437 *p. 45*

School districts  
Furnishing to, §34-437B *p. 46*

Statewide list, §34-437A *p. 45*

**Mail registration, §34-410 *p. 39***

### Military affairs

Cancellation of registration while elector  
serving in armed forces prohibited,  
§34-420 *p. 43*

### Municipal elections

Election day registration  
Applicability to municipal elections,  
§34-408A *p. 38*

**Online registration, §34-409 *p. 38***

### Overseas citizens

Uniformed and overseas citizens,  
§34-410A *p. 40*

**Political subdivisions, §34-1402 *p. 98***

Procedure, §34-407 *p. 37*

### Qualifications for registration

Determination, §34-412 *p. 41*

**Records exempt from public disclosure,  
§74-106 (referenced in §34-416) *p. 42***

**Refusal of registration, §34-412 *p. 41***

Hearing, §34-412 *p. 41*

**Registrars, §34-406 *p. 37***

Appointment, §34-406 *p. 37*

Duties, §34-406 *p. 37*

**Registration applications, §34-416 *p. 42***

Changes in boundaries of precinct  
Alteration of registration cards,  
§34-417 *p. 42*

Weekly review of new registration cards,  
§34-418 *p. 42*

**Required, §34-404 *p. 36***

### Reregistration

Change of residence, §34-413 *p. 42*

### Residence

Change of residence  
Reregistration, §34-413 *p. 42*

Gain or loss of residence due to absence  
from state

Intent to maintain residence  
Reregistration in other states during  
absence, §34-405 *p. 37*

**Retention of correspondence relating  
to cancellation of voter’s registration,  
§34-436 *p. 45***

### School districts

Lists of registered electorates  
Furnishing, §34-437B *p. 46*

### Suspension of registration

Electors who appear not to be citizens of  
United States, §34-419 *p. 43*

### Time limit

Closing of register, §34-408 *p. 37*

**Uniformed and overseas citizens,  
§34-410A *p. 40***

# INDEX

## VOTERS

— See “ELECTORS” heading

## VOTING

- Absentee voting,**
  - §§34-1001 to 34-1013 *p. 79-86*
- Early voting,**
  - §§34-1012, 34-1013 *p. 85, 86*
- Identification Required**
  - At the polls, §34-1113 *p. 90*
  - Affidavit in lieu of, §34-1114 *p. 90*
- Mail ballot precincts,** §34-308 *p. 34*
- Manner of voting,** §34-1107 *p. 88*

## VOTING MACHINES OR VOTE TALLY SYSTEMS

- Absentee voting,** §34-2423 *p. 167*
- Authorized,** §34-2402 *p. 159*
- Automated tabulation systems**
  - Recount procedures for ballots, §34-2313 *p. 157*
- Ballots,** §34-2418 *p. 165*
  - Defined, §34-2401 *p. 158*
  - Delivery to clerk before polls closed, §34-2422 *p. 166*
  - Labels, §34-2418 *p. 165*
    - Arrangements, §34-2416 *p. 164*
    - Defined, §34-2401 *p. 158*
  - Paper ballots
    - Absent voting by, §34-2423 *p. 167*
    - Use if voting machine becomes inoperative, §34-2421 *p. 166*
    - Use in conjunction with voting machines, §34-2424 *p. 167*
  - Providing printed matters and supplies, §34-2414 *p. 164*
  - Sample ballots
    - Preparation and distribution, §34-2425 *p. 167*
- Bond issues**
  - Applicability of bond election laws, §34-2403 *p. 159*
  - Payment for machines, §34-2407 *p. 160*
    - Prior approval required for issuance of bonds, §34-2408 *p. 160*
  - Use in bond issue elections
    - Authorized, §34-2402 *p. 159*
- Candidates**
  - Rotation of names of candidates, §34-2419 *p. 166*
- Closing of polls,** §34-2422 *p. 166*
- Definitions,** §34-2401 *p. 158*
- Disabilities, voters with**
  - Instruction and assistance, §34-2427 *p. 168*
- Examination of machines by secretary of state prior to adoption,** §34-2409 *p. 160*

## VOTING MACHINES OR VOTE TALLY SYSTEMS — Cont'd

- Exhibition of voting machines for instruction of voters,** §34-2426 *p. 168*
- General provisions,**
  - §§34-2401 to 34-2429 *p. 158-169*
- Inoperative voting machines**
  - Procedure if machine becomes inoperative, §34-2421 *p. 166*
- Notice**
  - Locations of voting machines and polling places, §34-2417 *p. 165*
- Other election laws**
  - Applicability, §34-2403 *p. 159*
- Polling places**
  - Closing of polls, §34-2422 *p. 166*
  - Notice of location of polling places, §34-2417 *p. 165*
  - Preparation of polling place for election, §34-2415 *p. 164*
- Precinct election boards,** §34-2411 *p. 163*
  - Clerks
    - Duties, §34-2411 *p. 163*
    - Number, §34-2412 *p. 163*
    - Composition, §34-2412 *p. 163*
  - Examinations of face of machine during election, §34-2420 *p. 166*
  - Instruction of boards in use of machines, §34-2413 *p. 163*
- Preparation of machines for use,** §34-2413 *p. 163*
  - Procedure, §34-2416 *p. 164*
- Prohibited acts as to,** §34-2404 *p. 159*
- Purchase and use**
  - Authorization, §34-2405 *p. 159*
  - Joint purchase and use, §34-2406 *p. 160*
  - Payment, §34-2407 *p. 160*
- Requirements,** §34-2410 *p. 162*
- Rules and regulations**
  - Secretary of state, §34-2411 *p. 163*
- Sample ballots**
  - Preparation and distribution, §34-2425 *p. 167*
- Saving clause**
  - Validation of previous elections, §34-2429 *p. 169*
- Secretary of state**
  - Examination of machines prior to adoption, §34-2409 *p. 160*
  - Rules and regulations, §34-2411 *p. 163*
- Specifications,** §34-2410 *p. 162*
- Tampering with machines**
  - Prohibited, §34-2404 *p. 159*
- Validation of elections,** §34-2429 *p. 169*





