

IN THE SUPREME COURT OF THE STATE OF IDAHO

IDAHOANS FOR OPEN PRIMARIES
and RECLAIM IDAHO,

Petitioners,

vs.

RAÚL R. LABRADOR, in his official ca-
pacity as the Idaho Attorney General, and
PHIL MCGRANE, in his official capacity
as the Idaho Secretary of State,

Respondents.

Docket No. 50940-2023

DECLARATION OF THEODORE J. WOLD

RAÚL R. LABRADOR
ATTORNEY GENERAL

THEODORE J. WOLD, ISB #12142
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Attorneys for Respondents

In support of Respondents' brief in the above-captioned matter, I, Theodore J. Wold, declare as follows:

1. I am the Solicitor General of the State of Idaho and counsel of record for Respondents.

2. Attached as Exhibit 1 is a true and correct copy of Secretary of State McGrane's cover letter, dated May 2, 2023, to the Honorable Raúl Labrador.

3. Attached as Exhibit 2 is a true and correct copy of a social media post from the Twitter account, Idahoans for Open Primaries, from May 24, 2023, at 1:30 PM, <https://twitter.com/OpenPrimariesID/status/1661454625994833920>.

Under Idaho Code § 9-1406, I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED: July 25, 2023.

/s/ Theodore J. Wold
THEODORE J. WOLD
Idaho Solicitor General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 25, 2023, I filed the foregoing electronically through the iCourt E-File system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notification of Service:

Deborah A. Ferguson
daf@fergusondurham.com

Craig H. Durham
chd@fergusondurham.com

/s/ Joshua N. Turner
JOSHUA N. TURNER
Deputy Solicitor General



STATE OF IDAHO
OFFICE OF THE SECRETARY OF STATE
PHIL McGRANE

May 2, 2023

RECEIVED

MAY 02 2023

OFFICE OF THE
ATTORNEY GENERAL

The Honorable Raúl Labrador
Attorney General
HAND-DELIVERED

Re: An Initiative Relating to Open Primaries in Idaho

Dear Attorney General Labrador:

Please find enclosed a copy of the proposed initiative petition submitted on May 2, 2023, by Ashley Prince, 1424 S. Loveland Street, Boise, ID 83705.

Pursuant to Section 34-1804, *Idaho Code*, the Secretary of State is required to transmit a copy of any proposed initiative petition in order for the Attorney General to issue a certificate of review.

I appreciate your cooperation in this matter.

Sincerely,


Nicole Fitzgerald
Deputy Secretary of State

The enclosure as cited.

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

INITIATIVE PETITION

To the Honorable Phil McGrane, Secretary of State of the State of Idaho:

"We the undersigned citizens and qualified electors of the State of Idaho, respectfully demand the following proposed law, effective January 1, 2026 to wit:

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

SECTION 1. This act may be referred to as "The Idaho Open Primaries Act."

SECTION 2. FINDINGS AND INTENT. (1) The people find that it is in the public interest of Idaho citizens to adopt a primary election system that is open and nonpartisan in order to generate more qualified and competitive candidates for elected office, boost voter turnout, better reflect the will of the electorate, and reward cooperation and reduce partisanship among elected officials.

(2) It is also in the public interest of Idaho citizens to adopt a general election system that helps ensure that the values of elected officials more broadly reflect the values of the electorate. An instant runoff voting system will mitigate the likelihood that a candidate who is disapproved by a majority of voters will get elected, encourage candidates to appeal to a broader section of the electorate, allow Idahoans to vote for the candidates that most accurately reflect their values without risking the election of those candidates that least accurately reflect their values, encourage greater third party and independent participation in elections, and provide a stronger mandate for winning candidates.

(3) It is the intent of this act that, at the conclusion of an instant runoff election, whichever candidate has the highest number of votes in the final round of tabulation is declared the winner.

SECTION 3. That Section 34-103, Idaho Code, be, and the same is hereby amended to read as follows:

34-103. "SPECIAL ELECTION" DEFINED. "Special election" means any election other than a general, ~~or~~ primary, or open primary election held at any time for any purpose provided by law.

SECTION 4. That Section 34-113, Idaho Code, be, and the same is hereby amended to read as follows:

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, open 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.

SECTION 5. That Chapter 1, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-118, Idaho Code, and to read as follows:

34-118. "OPEN PRIMARY ELECTION" DEFINED. "Open primary election" means an election, other than a judicial nominating election, held for the purpose of determining the candidates who will appear on the general election ballot. In open primary elections, all candidates will appear on the same ballot regardless of party affiliation, and all qualified electors may participate regardless of party affiliation. Open primary elections do not determine any party's nominee and candidates who advance from an open primary election to a general election are not considered nominees of any political party. Open primary elections shall be held on the same day as primary elections.

SECTION 6. That Chapter 1, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-119, Idaho Code, and to read as follows:

34-119. "INSTANT RUNOFF VOTING" DEFINED. "Instant runoff voting" means the method of casting and tabulating votes described in section 34-1218, Idaho Code, in which voters may rank candidates by order of preference,

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with each ballot counting as a single vote for its highest-ranked candidate still in the election, and ballots are tabulated in rounds, with the candidate receiving the fewest votes eliminated and votes for that candidate transferring to each ballot's next-highest ranked candidate until one (1) candidate receives a majority of remaining votes.

SECTION 7. That Chapter 1, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-119, Idaho Code, and to read as follows:

34-119. "INSTANT RUNOFF VOTING" DEFINED. "Instant runoff voting" means the method of casting and tabulating votes described in section 34-1218, Idaho Code, in which voters may rank candidates by order of preference, with each ballot counting as a single vote for its highest-ranked candidate still in the election, and ballots are tabulated in rounds, with the candidate receiving the fewest votes eliminated and votes for that candidate transferring to each ballot's next-highest ranked candidate until one (1) candidate receives a majority of remaining votes.

SECTION 8. That Chapter 1, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-120, Idaho Code, and to read as follows:

34-120. "COUNTY ELECTIVE OFFICE" DEFINED. "County elective office" means county commissioner, sheriff, prosecuting attorney, coroner, clerk, assessor, and treasurer.

SECTION 9. That Section 34-404, Idaho Code, be, and the same is hereby amended to read as follows:

34-404. REGISTRATION OF ELECTORS. (1) All electors must register before being able to vote at any primary, open 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. An elector does not need to be affiliated with a party or make any declaration about party affiliation in order to receive an open primary ballot.

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

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

SECTION 10. That Section 34-411A, Idaho Code, be, and the same is hereby amended to read as follows:

34-411A. PRIMARY AND OPEN PRIMARY ELECTIONS - CHANGING PARTY AFFILIATION - UNAFFILIATED ELECTORS. (1) For a primary election, an elector may change such elector's political party affiliation or become "unaffiliated" by filing a signed form with the county clerk no later than the last day a candidate may file for partisan political office prior to such primary election, as provided for in section 34-704, Idaho Code. An "unaffiliated" elector may affiliate with the party of the elector's choice by filing a signed form up to and including election

day. The application form described in section 34-1002, Idaho Code, shall also be used for this purpose.

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

(3) For an open primary election, an elector does not need to be affiliated with a political party in order to vote.

SECTION 11. That Section 34-501, Idaho Code, be, and the same is hereby amended to read as follows:

34-501. "POLITICAL PARTY" DEFINED -- PROCEDURES FOR CREATION OF A POLITICAL PARTY. (1) A "political party" within the meaning of this act, is an organization of electors under a given name. A political party shall be deemed created and qualified to participate in elections in any of the following three (3) ways:

(a) By having three (3) or more candidates for state or national office listed under the party name or indicating affiliation with that party pursuant to section 34-704A, Idaho Code, 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~~ or at least three percent (3%) of the aggregate of votes cast for all candidates indicating their affiliation with that party pursuant to section 34-704A, Idaho Code, in any round of tabulation in a general election for governor.

(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 pro- posed 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 pre- scribed 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.

(3) 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.

SECTION 12. That Section 34-702, Idaho Code, be, and the same is hereby amended to read as follows:

34-702. REQUIREMENTS FOR WRITE-IN CANDIDATES AT OPEN PRIMARY AND 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~~ an open 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) Any write-in candidate at an open primary who does not meet the requirements of subsection (1) of this section is not eligible to advance to the general election and shall not be included in the top four (4) candidates regardless of the number of votes received by that candidate.

(3) 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 five (5) write-in votes at the primary election; and

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

~~(2)~~ (4) 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)~~ (5) No write-ins shall be allowed for judicial office.

SECTION 13. That Section 34-702A, Idaho Code, be, and the same is hereby amended to read as follows:

34-702A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES. (1) No write-in vote for any office in a primary, open 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.

(3) In general elections conducted by instant runoff voting, a write-in candidate who has not submitted a declaration of intent pursuant to this section is not considered an active candidate and a ranking containing such a write-in candidate shall be treated in the same manner as a ranking containing an eliminated candidate for the purposes of tabulation.

SECTION 14. That Section 34-703, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(4) All candidates for United States senate, United States house of representatives, state legislature, elective state office or county elective office at general elections must advance from an open primary election or have their names placed on a general election ballot as otherwise provided by law. Open primary elections shall comply with the following provisions:

(a) All candidates participating in an open primary election shall appear on the same ballot, regardless of party affiliation.

(b) Each qualified elector, regardless of party affiliation, may vote for one (1) candidate.

(c) Subject to the provisions of section 34-702(1), Idaho Code:

(i) The four (4) candidates who receive the most votes shall advance to the general election and appear on the general election ballot.

(ii) If fewer than four (4) candidates receive votes, all candidates receiving votes shall advance to the general election and appear on the general election ballot.

(iii) If it cannot be determined which four (4) candidates received the most votes because two (2) or more candidates are tied with an equal number of votes, that tie shall be broken pursuant to the provisions of section 34-1216, Idaho Code.

SECTION 15. That Section 34-704, Idaho Code, be, and the same is hereby amended to read as follows:

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 ~~or, 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 and for United States senate, United States house of representatives, state legislature, or any elective state office or county elective 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) Candidates for United States senate, United States house of representatives, state legislature, or any elective state office or county elective office shall file their declarations of candidacy in the manner provided in section 34-704, Idaho Code. 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.

SECTION 16. That Chapter 7, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-704A, Idaho Code, and to read as follows:

34-704A. DECLARATION OF CANDIDACY FOR OPEN PRIMARY ELECTIONS. (1) Any person who desires to offer himself as a candidate for United States senate, United States house of representatives, state legislature, or any elective state office or county elective office may do so by complying strictly with the provisions of this section. In order to be recognized as a candidate in an open primary election, each such candidate must file with the proper officer as provided in section 34-705, Idaho Code, a declaration of candidacy, during the period specified in section 34-704, Idaho Code. Such declaration must declare the office for which the candidate seeks election, the political party with which the candidate is registered as affiliated, or whether the candidate prefers a nonpartisan or undeclared designation placed after the candidate's name on the ballot. Each such candidate who files a declaration of candidacy shall at the same time pay a filing fee, or a petition containing signatures in lieu of a filing fee, pursuant to the provisions of Chapter 6, Title 34, Idaho Code.

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

SECTION 17. That Section 34-705, Idaho Code, be, and the same is hereby amended to read as follows:

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.

(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.

SECTION 18. That Section 34-706, Idaho Code, be, and the same is hereby amended to read as follows:

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.~~

SECTION 19. That Section 34-708, Idaho Code, be and the same is hereby repealed

SECTION 20. That Section 34-712, Idaho Code, be, and the same is hereby amended to read as follows:

34-712. SAMPLE FORM FOR PRIMARY AND OPEN PRIMARY ELECTION BALLOTS. (1) The secretary of state shall provide the sample form of the primary and open primary election ballot to each of the county clerks no later than forty (40) days prior to the primary.

(2) The primary election 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.

(3) The open primary election sample ballots shall contain the proper candidates for open primary elections and certified in the office of the secretary of state with instructions for the placing of the candidates.

(4) 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.

SECTION 21. That Section 34-713, Idaho Code, be, and the same is hereby amended to read as follows:

34-713. PREPARATION OF PRIMARY AND OPEN PRIMARY BALLOTS. (1) Upon receipt of the sample ballot and instructions from the secretary of state, each county clerk shall print and prepare the official primary and open primary ballots for the forthcoming election. The printing of the ballots shall be a county expense and paid out of the county treasury.

(2) Each county clerk shall cause to be published on the earliest date possible in May the names of all the political party candidates who shall appear on the primary ballot and all candidates who shall appear on the open primary ballot. The names shall be listed alphabetically under each particular office title.

SECTION 22. That Section 34-714, Idaho Code, be, and the same is hereby amended to read as follows:

34-714. FILLING VACANCIES IN SLATE OF POLITICAL PARTY CANDIDATES OCCURRING PRIOR TO PRIMARY ELECTION. (1)(a) 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 by the county central committee if the vacancy occurs for the office of precinct committeeman 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.~~

(b) 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.~~

(c) 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.

SECTION 23. That Section 34-715, Idaho Code, be, and the same is hereby amended to read as follows:

34-715. FILLING OF VACANCIES OCCURRING BEFORE OR AFTER PRIMARY ELECTION. (1)(a) 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:~~ by the county central committee.

~~(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.~~

(b) 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.~~

(c) 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.

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

(2)(a) Vacancies in races for United States senate or United States house of representatives, state legislature, or any elective state office or county elective office that occur after the open primary election but at least ten (10) days before the general election shall be filled by advancing the candidate, if any, who received the most votes in the open primary but did not qualify to advance to the general election pursuant to the provisions of section 34-703(4)(c), Idaho Code.

(b) If it cannot be determined which candidate received the most votes because two (2) or more candidates are tied with an equal number of votes, that tie shall be broken pursuant to the provisions of section 34-1216, Idaho Code.

SECTION 24. That Section 34-904, Idaho Code, be, and the same is hereby amended to read as follows:

34-904. PRIMARY AND OPEN 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 county offices and~~ 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 for open primary elections shall be listed in order beginning with the highest federal office and ending with legislative district offices ~~precinct offices~~. The secretary of state has the discretion and authority to arrange the classifications of offices as provided by law.

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

(4) Ballots for open primary elections shall list all candidates who have qualified pursuant to section 34-704A, Idaho Code. After each candidate's name, the ballot shall include that candidate's indicated party affiliation, if any, and the ballot shall contain a disclaimer stating that a candidate's indicated party affiliation does not represent an endorsement or nomination by that party.

SECTION 25. That Section 34-904A, Idaho Code, be, and the same is hereby amended to read as follows:

34-904A. ELIGIBILITY TO VOTE IN PRIMARY AND OPEN 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 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 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 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 election pursuant to this paragraph, the state chairman shall identify which political parties' registrants are allowed to vote in such primary election.

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

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

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

(7) In the event that one (1) or more political parties allow electors affiliated with a different political party to vote in their primary 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 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.

(8) 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 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 election pursuant to this section, a vote by an "unaffiliated" elector in such primary election shall not change or affect the elector's "unaffiliated" designation.

(9) Every qualified elector shall be allowed to vote in the open primary election, regardless of party affiliation.

SECTION 26. That Section 34-906, Idaho Code, be, and the same is hereby amended to read as follows:

34-906. BALLOTS FOR GENERAL ELECTIONS - INSTANT RUNOFF VOTING BALLOTS. (1) There shall be a single general election ballot on which the complete ticket of each political party shall be printed for precinct committeeman elections. 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.

(4) General election ballots for offices elected by instant runoff voting, including statewide, congressional, legislative district, and county elective offices, shall contain only those candidates who advanced from the open primary

election pursuant to section 34-703(4), Idaho Code, and space for one (1) write-in candidate per race. Instant runoff voting ballots shall:

- (a) Allow voters to rank each candidate in order of preference;
- (b) Contain a statement instructing electors on how to assign rankings and prohibiting the assigning of the same ranking to more than one (1) candidate, ranking any candidate more than once, or skipping a ranking;
- (c) Include after each candidate's name that candidate's party affiliation pursuant to section 34-704A, Idaho Code, if any; and
- (d) A disclaimer stating that a candidate's indicated party affiliation does not represent an endorsement or nomination by that party.

SECTION 27. That Section 34-908, Idaho Code, be, and the same is hereby amended to read as follows:

34-908. EACH BALLOT TO CARRY OFFICIAL ELECTION BALLOT IDENTIFICATION ON OUTSIDE - MARKING OF BALLOT BY VOTER. (1) Every ballot used at any primary, open 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~~ Except as required by subsection (4) of this section, 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~~ Except as required by subsection (4) of this section, 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.

(4) In elections conducted by instant runoff voting, the voter shall mark his ballot with a mark sufficient to show his intent in the place provided that indicates the specific ranking order the voter wishes to assign to each candidate. The voter may assign a ranking order to each candidate listed on the ballot and (1) write-in candidate per race.

SECTION 28. That Section 34-909, Idaho Code, be, and the same is hereby amended to read as follows:

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.

(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 or party affiliation, as applicable, 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.

SECTION 29. That Section 34-1201, Idaho Code, be, and the same is hereby amended to read as follows:

34-1201. CANVASS OF VOTES. (1) When the polls are closed, the judges must immediately proceed to count the ballots cast at such election. The counting must be continued without adjournment until completed and the result declared.

(2) If the precinct has duplicate ballot boxes, the counting may begin after five (5) ballots have been cast. At this time, the additional clerks shall close the first ballot box and retire to the counting area and count the ballots. Upon completion of this counting, the clerks shall return the ballot box and then proceed to count all of the ballots cast in the second box during this period. This counting shall continue until the polls are closed, at which time all election personnel shall complete the counting of the ballots.

(3) The county clerk may designate paper ballots be returned to a central count location for counting by special counting boards. If the paper ballots are to be counted at a central count location, a procedure may be adopted to deliver the voted ballots to the county clerk prior to the closing of the polls. The results of this early count shall not be released to the public until after 8:00 p.m. of election day.

(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.

(5) Elections conducted by instant runoff voting shall be canvassed pursuant to the provisions of section 34-1218, Idaho Code.

SECTION 30. That Section 34-1203, Idaho Code, be, and the same is hereby amended to read as follows:

34-1203. COUNTING OF BALLOTS - CERTIFICATES OF JUDGES. (1) Subject to the provisions of section 34-1218, Idaho Code, the ~~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.

SECTION 31. That Section 34-1203A, Idaho Code, be, and the same is hereby amended to read as follows:

34-1203A. POSTELECTION AUDIT OF SELECTED BALLOTS.

(1)(a) After the completion of all county canvasses for any primary or general 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;
- (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 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.

(5) Postelection audits for elections using instant runoff voting shall be conducted using procedures established pursuant to rules promulgated by the secretary of state pursuant to chapter 52, title 67, Idaho Code.

SECTION 32. That Section 34-1206, Idaho Code, be, and the same is hereby amended to read as follows:

34-1206. BOARD'S STATEMENT OF VOTES CAST. (1) 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.

(2) The secretary of state shall promulgate rules pursuant to chapter 52, title 67, Idaho Code, to address statements of votes cast for candidates elected by instant runoff voting.

SECTION 33. That Section 34-1214, Idaho Code, be, and the same is hereby amended to read as follows:

34-1214. CERTIFICATES OF NOMINATION OR ELECTION TO FEDERAL, STATE, DISTRICT OR NONPARTISAN OFFICES AFTER OPEN PRIMARY. (1) Immediately after the open primary election canvass, the secretary of state shall issue certificates of nomination to the ~~political party~~ candidates ~~of each party~~ who receive the highest a sufficient number of votes for their particular federal, state or district office to advance to the general election pursuant to 34-703(4), Idaho Code. 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.

SECTION 34. That Section 34-1216, Idaho Code, be, and the same is hereby amended to read as follows:

34-1216. TIE VOTES - IN STATE OR DISTRICT ELECTIONS. In the case of a tie vote between the candidates at a primary, open primary, or general election, or the final round of a general election conducted by instant runoff voting, which tie must be broken in order to determine which candidate is elected or which candidates will advance to the 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.

SECTION 35. That Chapter 12, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1218, Idaho Code, and to read as follows:

34-1218. INSTANT RUNOFF VOTING – DEFINITIONS -- TABULATION. (1) For the purpose of instant runoff voting elections, unless the context or usage indicates otherwise, the following words have the following meanings:

(a) "Active candidate" means any candidate who has not been eliminated and has not withdrawn his candidacy according to law.

(b) "Highest-ranked active candidate" means the active candidate assigned to a higher ranking than any other active candidate.

(c) "Overvote" means an instance in which a voter has ranked more than one (1) candidate at the same ranking.

(d) "Ranking" or "ranking order" means the number available to be assigned by a voter to a candidate to express the voter's choice for that candidate. The number "1" is the highest ranking, followed by "2" and then "3" and so on.

(e) "Round" means an instance of the sequence of voting tabulation as provided in subsection (4) of this section.

(2) All general elections and all special elections to fill vacancies, as applicable, for congress, state elective office, county elective office or the state legislature involving three (3) or more candidates shall be conducted using instant runoff voting.

(3) Tabulation for elections conducted by instant runoff voting shall proceed in rounds. In a round of tabulation, each ballot counts as a vote for its highest-ranked active candidate. Tabulation shall proceed sequentially as follows:

(a) In any round, if an active candidate has a majority of votes, that candidate is elected and tabulation is complete.

(b) In the first round only, if no active candidate has a majority of votes in and there is at least one (1) write-in candidate who has filed a declaration of intent pursuant to section 34-702A, Idaho Code, then each such write-in candidate who received fewer than one hundred (100) votes or fewer votes than any active non-write-in candidate, shall be eliminated simultaneously and votes for those candidates shall be transferred to each ballot's next-highest-ranked active candidate.

(c) In any round other than those described in paragraphs (a) and (b) of this subsection, if no active candidate has a majority of votes, the active candidate with the fewest votes shall be eliminated and votes for that candidate shall be transferred to each ballot's next-highest-ranked active candidate, and a new round is conducted. This process shall be repeated until a candidate meets the requirements of paragraph (a) of this subsection.

(4) An inactive ballot does not count as a vote for any ranked active candidate. A ballot becomes inactive if:

(a) It does not contain rankings for any active candidate; or

(b) It contains an overvote that includes its highest-ranked candidate.

(5) (a) If two (2) or more candidates are tied with the fewest votes and tabulation cannot continue until the candidate with the fewest votes is defeated, then the candidate to be defeated shall be determined by lot.

(b) If there is a tie in a final round of tabulation and the winner cannot be determined until the tie is broken, that tie shall be broken as provided by law.

(6) (a) In order to determine a party's vote share under section 2, article III of the constitution of the state of Idaho or for any other purpose not otherwise provided by law, the aggregate total of all votes cast in the first round of tabulation for candidates who have indicated their affiliation with that party on the ballot pursuant to section 34-704A, Idaho Code, shall be used.

(b) In order to determine a candidate or elected official's party affiliation for the purpose of filling a vacancy or any other purpose, the party affiliation indicated on the ballot pursuant to section 34-704A, Idaho Code, by that candidate or elected official shall be used, unless otherwise provided by law.

(7) The secretary of state shall promulgate administrative rules pursuant to chapter 52, title 67, Idaho Code, for elections conducted by instant runoff voting, including rules for canvassing and tabulation.

SECTION 36. That Chapter 14, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1416, Idaho Code, and to read as follows:

34-1416. SPECIAL VACANCY ELECTIONS. Special elections to fill vacancies in the United States house of representatives pursuant to chapter 9, title 59, Idaho Code, shall be conducted by instant runoff voting according to section

34-1218, Idaho Code. Such vacancies shall be filled in a single election with all candidates appearing on the same ballot, regardless of the number of candidates who have qualified for placement on the ballot.

SECTION 37. That Section 34-2410, Idaho Code, be, and the same is hereby amended to read as follows:

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.

(g) Capable of tabulating votes in an instant runoff election pursuant to section 34-1218, Idaho Code.

(3) For the purpose of instant runoff voting elections, a voting machine shall be capable of conducting an instant runoff voting election pursuant to section 34-1218, Idaho Code.

SECTION 38. That Section 34-2305, Idaho Code, be, and the same is hereby amended to read as follows:

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. The secretary of state shall promulgate administrative rules pursuant to chapter 52, title 67, Idaho Code, for the conduct of recounts of instant runoff voting elections.

SECTION 39. That Section 34-903B, Idaho Code, be and the same is hereby repealed.

SECTION 40. All statutes inconsistent with the provisions of this act are hereby repealed and the Idaho Code Commission shall include such repealers in the annual codifiers' corrections bill as necessary.

SECTION 41. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act 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 act.

SECTION 42. This act shall be in full force and effect on and after January 1, 2026. **END.**

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 fifth (5th) day of November, A.D., 2024, and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and post office are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date	<u>Official Use Only Legislative District</u>
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					

Any person signing a petition may remove their signature pursuant to Section, 34-1803B, Idaho Code.

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)

Signed _____
Notary Public
Residing At _____
My Commission expires on _____

Funding Source Statement for the Idaho Open Primaries Act

The Idaho Open Primaries Act will be funded by an augmentation of existing state and county expenditures for advertising and tabulation. Implementation of the act will require 1.) A public awareness effort to inform voters, candidates, and election workers about changes to the election process, and 2.) The purchase of ballot tabulation equipment capable of conducting instant runoff elections.



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