

## APPENDIX E – Recall Elections



### Idaho Statutes

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## TITLE 34 ELECTIONS

### CHAPTER 17 RECALL ELECTIONS

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TITLE 34  
ELECTIONS

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.

[I.C., sec. 34-1701, as added by 1972, ch. 283, sec. 3, p. 703; am. 1975, ch. 137, sec. 1, p. 302; am. 1994, ch. 181, sec. 3, p. 577; am. 1995, ch. 266, sec. 1, p. 849.]

34-1702. REQUIRED SIGNATURES ON PETITION. A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(1) If the petition seeks recall of any of the officers named in subsection (1) (a) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

(2) If the petition seeks recall of any of the officers named in subsection (1) (b) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors of the legislative district equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

(3) If the petition seeks recall of any of the officers named in subsection (2) (a) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk, and must be signed by registered electors of the county equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the county for the election of county officers at which the officer was elected.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section 34-1701, Idaho Code, the petition shall be filed with the city clerk, and must be signed by registered electors of the city equal in number to twenty percent (20%) of the number of electors registered to vote

at the last general city election held in the city for the election of officers.

(5) If the petition seeks recall of any of the officers named in subsection (4) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk of the county wherein the district is located. If the district is located in two (2) or more counties, the clerk in each county shall perform the functions within that county. The petition must be signed by registered electors of the district or school trustee zone equal in number to fifty percent (50%) of the number of electors who cast votes in the last election of the district or school trustee zone. If no district election has been held in the last six (6) years, the petition must be signed by twenty percent (20%) of the number of electors registered to vote in the district or school trustee zone at the time the petition is filed.

[I.C., sec. 34-1702, as added by 1972, ch. 283, sec. 3, p. 703; am. 1995, ch. 266, sec. 2, p. 849; am. 2003, ch. 57, sec. 1, p. 201; am. 2012, ch. 211, sec. 8, p. 576.]

34-1703. FORM OF PETITION. (1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable....., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that....., holding the office of....., be recalled by the registered electors of this state for the following reasons, to-wit: (setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and		
		Number		

(Here follow twenty numbered lines for signatures.)

(2) The recall petition for members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable....., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No....., respectfully demand that....., holding the office of....., be recalled by the registered electors of Legislative District No..... for the following reasons, to-wit: (setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No....., my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date
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(Here follow twenty numbered lines for signatures.)

(3) The recall petition for county officers shall be in substantially the following form:

RECALL PETITION

To the honorable....., County Clerk for the County of.....:

We, the undersigned citizens and registered electors of the County of....., respectfully demand that....., holding the office of....., of the County of....., be recalled by the registered electors of the County of.... for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of....., my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date
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(Here follow twenty numbered lines for signatures.)

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the honorable....., City Clerk for the City of.....:

We, the undersigned citizens and registered electors of the City of....., respectfully demand that....., holding the office of....., of the City of....., be recalled by the registered electors of the City of.... for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of....., my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date
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(Here follow twenty numbered lines for signatures.)

(5) The recall petition for special district officers shall be in substantially the following form:

RECALL PETITION

To the honorable....., County Clerk of the County of.....:

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand that..., holding the office of..., of the (district), be recalled by the registered electors of the (district) for the following reasons, to-wit: (insert the reasons for the recall in two hundred (200) words or less); that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow twenty numbered lines for signatures.)

[I.C., sec. 34-1703, as added by 1972, ch. 283, sec. 3, p. 703; am. 1989, ch. 344, sec. 1, p. 868; am. 1995, ch. 266, sec. 3, p. 850; am. 2013, ch. 135, sec. 5, p. 311.]

34-1704. PRINTING OF PETITION AND SHEETS FOR SIGNATURES -- TIME LIMITS FOR PERFECTING PETITION. (1) Before or at the time of beginning to circulate any petition for the recall of any officer subject to recall, the person or persons, organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the secretary of state, county clerk, or city clerk, as the case may be, a copy of a prospective petition duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and signature sheets for recall shall be printed on a good quality bond paper of standardized size in substantial conformance within the provisions of section 34-1703, Idaho Code. To every sheet of petitioners' signatures shall be attached a full and correct copy of the recall petition.

(2) The secretary of state, county clerk, or city clerk, as the case may be, shall indicate in writing on the prospective recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the secretary of state, county clerk, or city clerk, shall inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of signatures within seventy-five (75) days following the date of approval as to form. Signatures on the prospective petition shall not be counted toward the required number of signatures. Any petition that does not contain the required number of signatures within the seventy-five (75) days allowed shall be declared null and void ab initio in its entirety.

[34-1704, as added by 1972, ch. 283, sec. 3, p. 703; am. 1975, ch. 137, sec. 2, p. 302; am. 2004, ch. 164, sec. 1, p. 533; am. 2013, ch. 135, sec. 6, p. 313.]

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.

REPLACE BL TAG HERE (Signature) .....

REPLACE BL TAG HERE Post office address .....

REPLACE BL TAG HERE .....

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

(Notary Seal)

REPLACE BL TAG HERE .....

REPLACE BL TAG HERE Notary Public

REPLACE BL TAG HERE Residing at .....

[34-1705, as added by 1972, ch. 283, sec. 3, p. 703; am. 2004, ch. 164, sec. 2, p. 534.]

34-1706. EXAMINATION AND CERTIFICATION OF SIGNATURES. All petitions with attached signature sheets shall be filed on the same day with the secretary of state, county clerk, or city clerk, as the case may be. The secretary of state or the city clerk shall promptly transmit the petitions and attached signature sheets to the county clerk. An examination to verify whether or not the petition signers are qualified electors shall be conducted by the county clerk and a certificate shall be attached to the signature sheets as provided in section 34-1807, Idaho Code. This examination shall not exceed fifteen (15) business days from the date of receipt of the petitions.

[34-1706, as added by 1972, ch. 283, sec. 3, p. 703; am. 1975, ch. 137, sec. 3, p. 302; am. 1995, ch. 266, sec. 4, p. 852; am. 2004, ch. 164, sec. 3, p. 535; am. 2013, ch. 135, sec. 7, p. 313.]

34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIGNATION -- SPECIAL ELECTION. (1) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly provide written notice to the officer being recalled, and the petitioner informing them, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section 34-106, Idaho Code. If the officer being recalled is one (1) specified in section 34-1701(1)(a), Idaho Code, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701(1)(b), Idaho Code, the special election shall be conducted only in the legislative district.

(2) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted countywide.

(3) In the event that a petition filed with the county clerk concerning the recall of an official of a special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled, and the petitioner, and the governing board of the special district informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the governing board of the special district. The special election must be held on the date prescribed in section 34-106, Idaho Code. The election shall be conducted by the county clerk in the manner provided in section 34-1401, Idaho Code.

(4) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The election shall be conducted by the county clerk in the manner provided in section 34-1401, Idaho Code, and shall be conducted citywide.

(5) In the event that a petition is found not to have the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of ninety (90) days against the same officer.

[34-1707, as added by 1972, ch. 283, sec. 3, p. 703; am. 1975, ch. 137, sec. 4, p. 309; am. 1989, ch. 344, sec. 2, p. 869; am. 1993, ch. 313, sec. 13, p. 1163; am. 1994, ch. 54, sec. 6, p. 95; am. 1995, ch. 266, sec. 5, p.

854; am. 2004, ch. 164, sec. 4, p. 537; am. 2012, ch. 211, sec. 9, p. 577; am. 2013, ch. 135, sec. 8, p. 313.]

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 ....

[I.C., sec. 34-1708, as added by 1972, ch. 283, sec. 3, p. 703; am. 1989, ch. 344, sec. 3, p. 871.]

34-1709. OFFICER TO CONTINUE IN OFFICE. The officer named in the recall petition shall continue to perform the duties of his office until the results of the special recall election are officially declared.

[I.C., sec. 34-1709, as added by 1972, ch. 283, sec. 3, p. 703.]

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.

[I.C., sec. 34-1710, as added by 1972, ch. 283, sec. 3, p. 703; am. 1989, ch. 344, sec. 4, p. 872; am. 1995, ch. 118, sec. 46, p. 467.]

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.

[34-1711, as added by 1972, ch. 283, sec. 3, p. 703; am. 2004, ch. 164, sec. 5, p. 539; am. 2013, ch. 135, sec. 9, p. 315.]

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.

[34-1712, added 1972, ch. 283, sec. 3, p. 703; am. 1975, ch. 137, sec. 5, p. 302; am. 2003, ch. 57, sec. 2, p. 202; am. 2013, ch. 135, sec. 10, p. 315.]

34-1713. TIME WITHIN WHICH RECALL MAY BE FILED -- REMOVAL OF SIGNATURES. (1) No petition for a recall shall be circulated against any officer until he has actually held office under the current term for at least ninety (90) days.

(2) After one (1) special recall election, no further recall petition shall be filed against the same officer during his current term of office, unless the petitioners first pay into the public treasury which has paid such special recall election expenses the whole amount of the expenses for the preceding recall election. The specific reason for recall in one (1) recall petition for which an election has been held cannot be the basis for a second recall petition during that current term of office.

(3) The signer of any recall petition may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed.

[34-1713, as added by 1972, ch. 283, sec. 3, p. 703; am. 1975, ch. 137, sec. 6, p. 302; am. 2004, ch. 164, sec. 6, p. 539; am. 2013, ch. 135, sec. 11, p. 316.]

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 or city officer if he is not a registered elector;
- (d) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any recall petition for the purpose of obtaining any signature to any

such petition, or for the purpose of persuading any person to sign any such recall petition;

(e) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;

(f) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;

(g) Makes any false affidavit concerning any recall petition or the signatures appended thereto;

(h) Offers, proposes or threatens for any pecuniary reward or consideration:

(i) To offer, 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:

(a) Knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

[I.C., sec. 34-1714, as added by 1972, ch. 283, sec. 3, p. 703; am. 1972, ch. 382, sec. 1, p. 1114.]

34-1715. REFUSAL TO ACCEPT PETITION -- MANDATE -- INJUNCTION. If the secretary of state, county clerk, or city clerk, refuses to accept and file any petition for the recall of a public officer with the requisite number of eligible signatures, any citizen may apply within ten (10) business days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state, county clerk, or city clerk shall then accept and file the recall petition, with a certified copy of the 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, county clerk, or city clerk, and all other officers from certifying or printing any official ballot for a recall election. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the court of appeals within ten (10) business days after a decision is rendered. The district court of the state of Idaho in and for Ada County shall have jurisdiction in all cases involving the recall of state officers.

[34-1715, as added by 1972, ch. 283, sec. 3, p. 703; am. 2004, ch. 164, sec. 7, p. 540.]