

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 321

BY STATE AFFAIRS COMMITTEE

AN ACT

1  
2 RELATING TO SCHOOL TRUSTEE RECALL ELECTIONS; AMENDING SECTION 33-503, IDAHO  
3 CODE, TO REVISE PROVISIONS REGARDING CERTAIN SCHOOL BOARD TRUSTEE ELEC-  
4 TIONS; AMENDING SECTION 33-504, IDAHO CODE, TO REVISE PROVISIONS RE-  
5 GARDING CERTAIN VACANCIES ON BOARDS OF SCHOOL TRUSTEES; AND DECLARING  
6 AN EMERGENCY.

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

8 SECTION 1. That Section 33-503, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 33-503. ELECTION OF TRUSTEES -- UNIFORM DATE -- RECALL ELECTION  
11 DATE. (1) Except as provided in section 33-504, Idaho Code, ~~t~~The election of  
12 school district trustees including those in charter districts shall be on  
13 the Tuesday following the first Monday in November in odd-numbered years.  
14 Notice and conduct of the election, and the canvassing of the returns, shall  
15 be as provided in chapter 14, title 34, Idaho Code. In each trustee zone, the  
16 person receiving the greatest number of votes cast within his zone shall be  
17 declared by the board of trustees as the trustee elected from that person's  
18 zone.

19 (2) If any two (2) or more persons residing in the same trustee zone have  
20 an equal number of votes and a greater number than any other nominee residing  
21 in that zone, then the board of trustees shall determine the winner by a toss  
22 of a coin.

23 ~~(3) Incumbent trustees as of the effective date of this act shall have~~  
24 ~~their terms expire on January 1 following the November election of their suc-~~  
25 ~~cessors~~ An election for the recall of a school district trustee shall be held  
26 on an election date authorized in section 34-106(9), Idaho Code.

27 SECTION 2. That Section 33-504, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 33-504. VACANCIES ON BOARDS OF TRUSTEES. (1) A vacancy shall be de-  
30 clared by the board of trustees when any nominee has been elected but has  
31 failed to qualify for office, or within thirty (30) days of when any trustee  
32 shall (a) die; (b) resign as trustee; (c) remove himself from his trustee  
33 zone of residence; (d) no longer be a resident or school district elector of  
34 the district; (e) refuse to serve as trustee; (f) without excuse acceptable  
35 to the board of trustees, fail to attend four (4) consecutive regular meet-  
36 ings of the board; or (g) be recalled and discharged from office as provided  
37 in law.

38 (2) Such declaration of vacancy shall be made at any regular or special  
39 meeting of the board of trustees, at which any of the above-mentioned condi-  
40 tions are determined to exist.

1       (3) The board of trustees shall appoint to such vacancy a person qual-  
2 ified to serve as trustee of the school district provided there remains in  
3 membership on the board of trustees a majority of the membership thereof, and  
4 the board shall notify the state superintendent of public instruction of the  
5 appointment. Such appointment shall be made within ninety (90) days of the  
6 declaration of vacancy. After ninety (90) days, if the board of trustees is  
7 unable to appoint a trustee from the zone vacated, the board of trustees may  
8 appoint a person ~~at-large~~ at large from within the boundaries of the school  
9 district to serve as the trustee from the zone where the vacancy occurred.  
10 Otherwise, after one hundred twenty (120) days from the declaration of va-  
11 cancy, appointments shall be made by the board of county commissioners of the  
12 county in which the district is situate, or of the home county if the district  
13 be a joint district.

14       (4) Any person appointed as herein provided in this section shall serve  
15 for the balance of the unexpired term of the office which that was declared  
16 vacant and filled by appointment.

17       (5) Notwithstanding any other provision of law to the contrary, if  
18 a trustee is recalled from office or has resigned following the filing of  
19 a prospective recall petition with the county clerk pursuant to section  
20 34-1704(1), Idaho Code, and a vacancy is declared, the vacancy shall be  
21 filled by an election held on the next available election date provided in  
22 section 34-106(1) or (7), Idaho Code, that is at least forty-five (45) days  
23 after the date on which the county clerk orders the election to be held.

24       (a) If the election will be held within ninety (90) days of the date of  
25 the clerk's order to hold the election, the seat shall remain vacant  
26 during those ninety (90) days, after which the newly elected trustee  
27 shall serve the remainder of the recalled trustee's term or, if the re-  
28 called trustee's seat was up for reelection on that election date, the  
29 newly elected trustee shall serve the next full term of office. Pro-  
30 vided, however, if more than one (1) trustee is recalled and the board  
31 no longer has a quorum to conduct business, the board of county commis-  
32 sioners shall appoint only such number of temporary trustees necessary  
33 to provide the board with a quorum to conduct business until the next  
34 election date.

35       (b) If the election to fill the recalled trustee's seat will be held  
36 more than ninety (90) days from the date of the clerk's order to hold the  
37 election, a temporary trustee shall be appointed to serve until a new  
38 trustee is elected. The temporary appointment shall be made according  
39 to the procedures set forth in subsection (3) of this section, except  
40 that the appointment must be made within thirty (30) days of the decla-  
41 ration of vacancy.

42       SECTION 3. An emergency existing therefor, which emergency is hereby  
43 declared to exist, this act shall be in full force and effect on and after its  
44 passage and approval.