

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 438

BY STATE AFFAIRS COMMITTEE

AN ACT

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

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~~ July 1,  
24 2018, shall have their terms expire on January 1 following the November elec-  
25 tion of their successors.

26 (4) An election for the recall of a school district trustee shall be  
27 held on an election date authorized in section 34-106(9), Idaho Code.

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

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

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

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

17       (4) Any person appointed as herein provided shall serve for the balance  
18 of the unexpired term of the office ~~which~~ that was declared vacant and filled  
19 by appointment.

20       (5) Notwithstanding any other provision of law to the contrary, if  
21 a trustee is recalled from office or has resigned following the filing of  
22 a prospective recall petition with the county clerk pursuant to section  
23 34-1704(1), Idaho Code, and a vacancy is declared, the vacancy shall be  
24 filled by an election held on the next available election date provided in  
25 section 34-106(1) or (7), Idaho Code, that is at least eighty-five (85) days  
26 after the date on which the county clerk orders the election to be held. Ex-  
27 cept as otherwise specifically provided in this subsection, the provisions  
28 of section 33-502, Idaho Code, and chapter 14, title 34, Idaho Code, shall  
29 govern an election under this subsection.

30       (a) If the election will be held within one hundred (100) days of the  
31 date of the clerk's order to hold the election, the seat shall remain  
32 vacant until the election, after which the newly elected trustee shall  
33 serve the remainder of the recalled trustee's term or, if the recalled  
34 trustee's seat was up for reelection on that election date, the newly  
35 elected trustee shall serve the next full term of office. Provided,  
36 however, if more than one (1) trustee is recalled and the board no longer  
37 has a quorum to conduct business, the board of county commissioners  
38 shall appoint only such number of temporary trustees necessary to pro-  
39 vide the board with a quorum to conduct business until the next election  
40 date.

41       (b) If the election to fill the recalled trustee's seat will be held  
42 more than one hundred (100) days from the date of the clerk's order to  
43 hold the election, a temporary trustee shall be appointed to serve un-  
44 til a new trustee is elected. The temporary appointment shall be made  
45 according to the procedures set forth in subsection (3) of this section,  
46 except that a thirty (30) day period shall be substituted for the sixty  
47 (60) day period, and a sixty (60) day period shall be substituted for the  
48 one hundred twenty (120) day period set forth in subsection (3) of this  
49 section.

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