

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 1

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-1203A, IDAHO CODE, TO PROVIDE RE-
QUIREMENTS FOR POSTELECTION AUDITS AND TO MAKE TECHNICAL CORRECTIONS;
AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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, including any presidential primary election,
the secretary of state shall identify and order a postelection audit
of certain paper ballots cast in any election, shall immediately post
to the website of the office of the secretary of state a list of the
elections, counties, and precincts selected for audit, and shall im-
mediately notify each affected county clerk and county sheriff of the
same. Upon receiving such notification, the county sheriff shall im-
mediately 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~~ or, in the
event that the ballots are subject to a recount pursuant to chapter 23,
title 34, Idaho Code, to the county sheriff. The postelection audit
shall include, at a minimum, a hand recount of the ballots subject to
the audit and a comparison to the results reported by the county for
any precincts, days, batches, legislative districts, and tabulation
machines selected for audit.

(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 percent-
age 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

1 multiple precincts may be selected in any county if the number of
2 ballots from the precincts so selected is less than two thousand
3 one hundred (2,100).

4 (d) The secretary of state, in lieu of auditing the early or absentee
5 ballots from any precincts selected for postelection audit, may select
6 days, batches, legislative districts, ~~or~~ and tabulation machines of
7 early or absentee ballots for audit until the number of ballots selected
8 equals or exceeds the number of early or absentee ballots that were
9 cast from the precincts selected for postelection audit. Such days,
10 batches, legislative districts, ~~or~~ and tabulation machines shall be
11 selected under the same requirements by which precincts were selected.
12 The provisions of this paragraph apply only to a county that:

13 (i) Does not organize the storage of its early or absentee ballots
14 by precinct;

15 (ii) Organizes the storage of such ballots by day, batch, legisla-
16 tive district, or tabulation machine; and

17 (iii) Publicly reports the election results for early or absen-
18 tee ballots by day, batch, legislative district, or tabulation ma-
19 chine on the county's website prior to the secretary of state's se-
20 lection of precincts to be audited.

21 (2) The secretary of state shall conduct, and the county clerks shall
22 facilitate, any postelection audit ordered pursuant to subsection (1) of
23 this section. Such an audit shall be open to attendance by news media person-
24 nel. By directive issued at least sixty (60) days prior to the election, the
25 secretary of state shall determine the procedures by which the postelection
26 audit is to be conducted. Such procedures shall be developed in consultation
27 with county clerks and shall include provisions allowing each interested
28 candidate and political party, and each political committee that publicly
29 reported expending money on a ballot question for which the results will be
30 audited, to appoint a designated observer. Within the time specified in the
31 directive, the secretary of state shall report the results of any postelec-
32 tion audits on the website of the office of the secretary of state and to the
33 county clerk of each county in which paper ballots were audited.

34 (3) The secretary of state may order additional postelection audits,
35 without regard to the election or precinct limitations provided in subsec-
36 tion (1) of this section, if he determines that such action is warranted by
37 the findings of the audits ordered pursuant to subsection (1) of this sec-
38 tion. The secretary of state shall limit such orders for additional post-
39 election audits to the types of problems identified by the audits performed
40 pursuant to subsection (1) of this section.

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

44 SECTION 2. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 July 1, 2023.