

LEGISLATURE OF THE STATE OF IDAHO
Sixty-eighth Legislature First Regular Session - 2025

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 362

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PUBLIC OFFICE; AMENDING SECTION 59-901, IDAHO CODE, TO PROVIDE THAT SUBSCRIBING TO THE OATH OF OFFICE FOR AN ELECTIVE FEDERAL, STATEWIDE, OR LEGISLATIVE OFFICE SHALL CREATE A VACANCY IN ANOTHER ELECTIVE OFFICE HELD BY THE INDIVIDUAL UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 59-901, Idaho Code, be, and the same is hereby amended to read as follows:

59-901. HOW VACANCIES OCCUR. (1) Every elective civil office shall be vacant upon the happening of any of the following events at any time before the expiration of the term of such office, as follows:

(a) The resignation of the incumbent~~;~~;

(b) The death of the incumbent~~;~~;

(c) Removal of the incumbent from office by lawful procedure~~;~~;

(d) The decision of a competent tribunal declaring an elective office vacant due to apparent abandonment or prolonged incapacity or absence, or other basis as determined by the tribunal, provided such apparent abandonment, prolonged incapacity, absence, or other basis is in excess of ninety (90) days~~;~~;

(e) The incumbent ceasing to be a resident of the state, district, or county in which the duties of his office are to be exercised~~;~~; or for which he may have been elected~~;~~;

(f) A failure to elect someone at the proper election, there being no incumbent to continue in office until a successor is elected and qualified, nor other lawful provisions for filling an elective office~~;~~;

(g) A forfeiture of elective office as provided by any law of the state~~;~~;

(h) Conviction of an incumbent officeholder of any felony~~;~~; or of any public offense involving the violation of his oath of office~~;~~; or

(i) The acceptance of a commission to any military office, either in the militia of this state, or in the service of the United States, which requires the incumbent in the civil office to exercise his military duties out of the state for a period of not less than sixty (60) days.

(2) (a) Subscribing to the oath of office for an elective federal, statewide, or legislative office shall create a vacancy in any other elective office held by the individual in any:

(i) City with a population of one thousand (1,000) or more based on the most recent decennial census at the time the individual last filed for city office;

1 (ii) School district with five hundred (500) or more enrolled stu-
2 dents in the most recent school year at the time the individual
3 last filed for school district office; or

4 (iii) Highway district located primarily in a county with a pop-
5 ulation of ten thousand (10,000) or more based on the most recent
6 decennial census at the time the individual last filed for highway
7 district office.

8 (b) The provisions of paragraph (a) of this subsection shall not apply
9 to a person who subscribes to the oath of office for a legislative office
10 as a temporary substitute pursuant to section 67-412, Idaho Code, or
11 as an emergency interim successor pursuant to sections 67-413 through
12 67-426, Idaho Code.

13 SECTION 2. This act shall be in full force and effect on and after Jan-
14 uary 1, 2026.