

ESSB 5499 - CONF REPT  
By Conference Committee

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 29A.04.008 and 2004 c 271 s 102 are each amended to  
4 read as follows:

5 As used in this title:

6 (1) "Ballot" means, as the context implies, either:

7 (a) The issues and offices to be voted upon in a jurisdiction or  
8 portion of a jurisdiction at a particular primary, general election, or  
9 special election;

10 (b) A facsimile of the contents of a particular ballot whether  
11 printed on a paper ballot or ballot card or as part of a voting machine  
12 or voting device;

13 (c) A physical or electronic record of the choices of an individual  
14 voter in a particular primary, general election, or special election;  
15 or

16 (d) The physical document on which the voter's choices are to be  
17 recorded;

18 (2) "Paper ballot" means a piece of paper on which the ballot for  
19 a particular election or primary has been printed, on which a voter may  
20 record his or her choices for any candidate or for or against any  
21 measure, and that is to be tabulated manually;

22 (3) "Ballot card" means any type of card or piece of paper of any  
23 size on which a voter may record his or her choices for any candidate  
24 and for or against any measure and that is to be tabulated on a vote  
25 tallying system;

26 (4) "Sample ballot" means a printed facsimile of all the issues and  
27 offices on the ballot in a jurisdiction and is intended to give voters  
28 notice of the issues, offices, and candidates that are to be voted on  
29 at a particular primary, general election, or special election;

30 (5) "Provisional ballot" means a ballot issued (~~to a voter~~) at  
31 the polling place on election day by the precinct election board(~~for~~

1 ~~one of the following reasons))~~ to a voter who would otherwise be denied  
2 an opportunity to vote a regular ballot, for any reason authorized by  
3 the help America vote act, including but not limited to the following:

4 (a) The voter's name does not appear in the poll book;

5 (b) There is an indication in the poll book that the voter has  
6 requested an absentee ballot, but the voter wishes to vote at the  
7 polling place;

8 (c) There is a question on the part of the voter concerning the  
9 issues or candidates on which the voter is qualified to vote;

10 (d) Any other reason allowed by law;

11 (6) "Party ballot" means a primary election ballot specific to a  
12 particular major political party that lists all partisan offices to be  
13 voted on at that primary, and the candidates for those offices who  
14 affiliate with that same major political party;

15 (7) "Nonpartisan ballot" means a primary election ballot that lists  
16 all nonpartisan races and ballot measures to be voted on at that  
17 primary.

18 **Sec. 2.** RCW 29A.04.530 and 2003 c 111 s 151 are each amended to  
19 read as follows:

20 The secretary of state shall:

21 (1) Establish and operate, or provide by contract, training and  
22 certification programs for state and county elections administration  
23 officials and personnel, including training on the various types of  
24 election law violations and discrimination, and training programs for  
25 political party observers which conform to the rules for such programs  
26 established under RCW 29A.04.630;

27 (2) Establish guidelines, in consultation with state and local law  
28 enforcement or certified document examiners, for signature verification  
29 processes. All election personnel assigned to verify signatures must  
30 receive training on the guidelines;

31 (3) Administer tests for state and county officials and personnel  
32 who have received such training and issue certificates to those who  
33 have successfully completed the training and passed such tests;

34 ~~((3))~~ (4) Maintain a record of those individuals who have  
35 received such training and certificates; and

36 ~~((4))~~ (5) Provide the staffing and support services required by  
37 the board created under RCW 29A.04.510.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 29A.36 RCW  
2 to read as follows:

3        All provisional and absentee ballots must be visually  
4 distinguishable from each other and must be either:

5            (1) Printed on colored paper; or

6            (2) Imprinted with a bar code for the purpose of identifying the  
7 ballot as a provisional or absentee ballot.    The bar code must not  
8 identify the voter.

9        Provisional and absentee ballots must be incapable of being  
10 tabulated by poll-site counting devices.

11        **Sec. 4.**    RCW 29A.40.091 and 2004 c 271 s 135 are each amended to  
12 read as follows:

13        The county auditor shall send each absentee voter a ballot, a  
14 security envelope in which to seal the ballot after voting, a larger  
15 envelope in which to return the security envelope, and instructions on  
16 how to mark the ballot and how to return it to the county auditor.    The  
17 instructions that accompany an absentee ballot for a partisan primary  
18 must include instructions for voting the applicable ballot style, as  
19 provided in chapter 29A.36 RCW.    The absentee voter's name and address  
20 must be printed on the larger return envelope, which must also contain  
21 a declaration by the absentee voter reciting his or her qualifications  
22 and stating that he or she has not voted in any other jurisdiction at  
23 this election, together with a summary of the penalties for any  
24 violation of any of the provisions of this chapter.    The declaration  
25 must clearly inform the voter that it is illegal to vote if he or she  
26 is not a United States citizen; it is illegal to vote if he or she has  
27 been convicted of a felony and has not had his or her voting rights  
28 restored; and, except as otherwise provided by law, it is illegal to  
29 cast a ballot or sign an absentee envelope on behalf of another voter.  
30 The return envelope must provide space for the voter to indicate the  
31 date on which the ballot was voted and for the voter to sign the oath.  
32 It must also contain a space that the voter may include a telephone  
33 number.    A summary of the applicable penalty provisions of this chapter  
34 must be printed on the return envelope immediately adjacent to the  
35 space for the voter's signature.    The signature of the voter on the  
36 return envelope must affirm and attest to the statements regarding the  
37 qualifications of that voter and to the validity of the ballot.    The

1 return envelope must also have a secrecy flap that the voter may seal  
2 that will cover the voter's signature and optional telephone number.  
3 For out-of-state voters, overseas voters, and service voters, the  
4 signed declaration on the return envelope constitutes the equivalent of  
5 a voter registration for the election or primary for which the ballot  
6 has been issued. The voter must be instructed to either return the  
7 ballot to the county auditor by whom it was issued or attach sufficient  
8 first class postage, if applicable, and mail the ballot to the  
9 appropriate county auditor no later than the day of the election or  
10 primary for which the ballot was issued.

11 If the county auditor chooses to forward absentee ballots, he or  
12 she must include with the ballot a clear explanation of the  
13 qualifications necessary to vote in that election and must also advise  
14 a voter with questions about his or her eligibility to contact the  
15 county auditor. This explanation may be provided on the ballot  
16 envelope, on an enclosed insert, or printed directly on the ballot  
17 itself. If the information is not included, the envelope must clearly  
18 indicate that the ballot is not to be forwarded and that return postage  
19 is guaranteed.

20 **Sec. 5.** RCW 29A.40.110 and 2003 c 111 s 1011 are each amended to  
21 read as follows:

22 (1) The opening and subsequent processing of return envelopes for  
23 any primary or election may begin (~~(on or after the tenth day before~~  
24 ~~the primary or election)) upon receipt. The tabulation of absentee  
25 ballots must not commence until after 8:00 p.m. on the day of the  
26 primary or election.~~

27 (2) All received absentee return envelopes must be placed in secure  
28 locations from the time of delivery to the county auditor until their  
29 subsequent opening. After opening the return envelopes, the county  
30 canvassing board shall place all of the ballots in secure storage until  
31 after 8:00 p.m. of the day of the primary or election. Absentee  
32 ballots that are to be tabulated on an electronic vote tallying system  
33 may be taken from the inner envelopes and all the normal procedural  
34 steps may be performed to prepare these ballots for tabulation.

35 (3) Before opening a returned absentee ballot, the canvassing  
36 board, or its designated representatives, shall examine the postmark,  
37 statement, and signature on the return envelope that contains the

1 security envelope and absentee ballot. They shall verify that the  
2 voter's signature on the return envelope is the same as the signature  
3 of that voter in the registration files of the county. For registered  
4 voters casting absentee ballots, the date on the return envelope to  
5 which the voter has attested determines the validity, as to the time of  
6 voting for that absentee ballot if the postmark is missing or is  
7 illegible. For out-of-state voters, overseas voters, and service  
8 voters stationed in the United States, the date on the return envelope  
9 to which the voter has attested determines the validity as to the time  
10 of voting for that absentee ballot. For any absentee ballot, a  
11 variation between the signature of the voter on the return envelope and  
12 the signature of that voter in the registration files due to the  
13 substitution of initials or the use of common nicknames is permitted so  
14 long as the surname and handwriting are clearly the same.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 29A.44 RCW  
16 to read as follows:

17 Provisional ballots must be issued, along with a provisional ballot  
18 outer envelope and a security envelope, to voters as appropriate under  
19 RCW 29A.04.008. The provisional ballot outer envelope must include a  
20 place for the voter's name; registered address, both present and former  
21 if applicable; date of birth; reason for the provisional ballot; the  
22 precinct number and the precinct polling location at which the voter  
23 has voted; and a space for the county auditor to list the disposition  
24 of the provisional ballot. The provisional ballot outer envelope must  
25 also contain a declaration as required for absentee ballot outer  
26 envelopes under RCW 29A.40.091; a place for the voter to sign the oath;  
27 and a summary of the applicable penalty provisions of this chapter.  
28 The voter shall vote the provisional ballot in secrecy and, when done,  
29 place the provisional ballot in the security envelope, then place the  
30 security envelope into the outer envelope, and return it to the  
31 precinct election official. The election official shall ensure that  
32 the required information is completed on the outer envelope, have the  
33 voter sign it in the appropriate space, and place the envelope in a  
34 secure container. The official shall then give the voter written  
35 information advising the voter how to ascertain whether the vote was  
36 counted and, if applicable, the reason why the vote was not counted.

1        NEW SECTION.    **Sec. 7.** A new section is added to chapter 29A.44 RCW  
2 to read as follows:

3        Any person desiring to vote at any primary or election is required  
4 to provide identification to the election officer before signing the  
5 poll book. The identification required in this section can be  
6 satisfied by providing a valid photo identification, such as a driver's  
7 license or state identification card, student identification card, or  
8 tribal identification card, a voter's voter identification issued by a  
9 county elections officer, or a copy of a current utility bill, bank  
10 statement, paycheck, or government check or other government document.  
11 Any individual who desires to vote in person but cannot provide  
12 identification as required by this section shall be issued a  
13 provisional ballot.

14        The secretary of state may adopt rules to carry out this section.

15        NEW SECTION.    **Sec. 8.** A new section is added to chapter 29A.60 RCW  
16 to read as follows:

17        (1) If the voter neglects to sign the outside envelope of an  
18 absentee or provisional ballot, the auditor shall notify the voter by  
19 telephone and advise the voter of the correct procedures for completing  
20 the unsigned affidavit. If the auditor is not able to provide the  
21 information personally to the voter by telephone, then the voter must  
22 be contacted by first class mail and advised of the correct procedures  
23 for completing the unsigned affidavit. Leaving a voice mail message  
24 for the voter is not to be considered as personally contacting the  
25 voter. In order for the ballot to be counted, the voter must either:

26        (a) Appear in person and sign the envelope no later than the day  
27 before the certification of the primary or election; or

28        (b) Sign a copy of the envelope provided by the auditor, and return  
29 it to the auditor no later than the day before the certification of the  
30 primary or election.

31        (2)(a) If the handwriting of the signature on an absentee or  
32 provisional ballot envelope is not the same as the handwriting of the  
33 signature on the registration file, the auditor shall notify the voter  
34 by telephone and advise the voter of the correct procedures for  
35 updating his or her signature on the voter registration file. If the  
36 auditor is not able to provide the information personally to the voter  
37 by telephone, then the voter must be contacted by first class mail and

1 advised of the correct procedures for completing the unsigned  
2 affidavit. Leaving a voice mail message for the voter is not to be  
3 considered as personally contacting the voter. In order for the ballot  
4 to be counted, the voter must either:

5 (i) Appear in person and sign a new registration form no later than  
6 the day before the certification of the primary or election; or

7 (ii) Sign a copy of the affidavit provided by the auditor and  
8 return it to the auditor no later than the day before the certification  
9 of the primary or election. If the signature on the copy of the  
10 affidavit does not match the signature on file, the voter must appear  
11 in person and sign a new registration form no later than the day before  
12 the certification of the primary or election in order for the ballot to  
13 be counted.

14 (b) If the signature on an absentee or provisional ballot envelope  
15 is not the same as the signature on the registration file because the  
16 name is different, the ballot may be counted as long as the handwriting  
17 is clearly the same. The auditor shall send the voter a change-of-name  
18 form under RCW 29A.08.440 and direct the voter to complete the form.

19 (c) If the signature on an absentee or provisional ballot envelope  
20 is not the same as the signature on the registration file because the  
21 voter used initials or a common nickname, the ballot may be counted as  
22 long as the surname and handwriting are clearly the same.

23 (3) A voter may not cure a missing or mismatched signature for  
24 purposes of counting the ballot in a recount.

25 (4) A record must be kept of all ballots with missing and  
26 mismatched signatures. The record must contain the date on which the  
27 voter was contacted or the notice was mailed, as well as the date on  
28 which the voter signed the envelope, a copy of the envelope, a new  
29 registration form, or a change-of-name form. That record is a public  
30 record under chapter 42.17 RCW and may be disclosed to interested  
31 parties on written request.

32 NEW SECTION. **Sec. 9.** A new section is added to chapter 29A.60 RCW  
33 to read as follows:

34 Before certification of the primary or election, the county auditor  
35 must examine and investigate all received provisional ballots to  
36 determine whether the ballot can be counted. The auditor shall provide  
37 the disposition of the provisional ballot and, if the ballot was not

1 counted, the reason why it was not counted, on a free access system  
2 such as a toll-free telephone number, web site, mail, or other means.  
3 The auditor must notify the voter in accordance with section 8 of this  
4 act when the envelope is unsigned or when the signatures do not match.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.60  
6 RCW to read as follows:

7 If inspection of the ballot reveals a physically damaged ballot or  
8 ballot that may be otherwise unreadable or uncountable by the  
9 tabulating system, the county auditor may refer the ballot to the  
10 county canvassing board or duplicate the ballot if so authorized by the  
11 county canvassing board. The voter's original ballot may not be  
12 altered. A ballot may be duplicated only if the intent of the voter's  
13 marks on the ballot is clear and the electronic voting equipment might  
14 not otherwise properly tally the ballot to reflect the intent of the  
15 voter. Ballots must be duplicated by teams of two or more people  
16 working together. When duplicating ballots, the county auditor shall  
17 take the following steps to create and maintain an audit trail of the  
18 action taken:

19 (1) Each original ballot and duplicate ballot must be assigned the  
20 same unique control number, with the number being marked upon the face  
21 of each ballot, to ensure that each duplicate ballot may be tied back  
22 to the original ballot;

23 (2) A log must be kept of the ballots duplicated, which must at  
24 least include:

25 (a) The control number of each original ballot and the  
26 corresponding duplicate ballot;

27 (b) The initials of at least two people who participated in the  
28 duplication of each ballot; and

29 (c) The total number of ballots duplicated.

30 Original and duplicate ballots must be sealed in secure storage at  
31 all times, except during duplication, inspection by the canvassing  
32 board, or tabulation.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 29A.60  
34 RCW to read as follows:

35 (1) The county auditor shall prepare, make publicly available at

1 the auditor's office or on the auditor's web site, and submit at the  
2 time of certification an election reconciliation report that discloses  
3 the following information:

- 4 (a) The number of registered voters;
- 5 (b) The number of ballots counted;
- 6 (c) The number of provisional ballots issued;
- 7 (d) The number of provisional ballots counted;
- 8 (e) The number of provisional ballots rejected;
- 9 (f) The number of absentee ballots issued;
- 10 (g) The number of absentee ballots counted;
- 11 (h) The number of absentee ballots rejected;
- 12 (i) The number of federal write-in ballots counted;
- 13 (j) The number of out-of-state, overseas, and service ballots  
14 issued;
- 15 (k) The number of out-of-state, overseas, and service ballots  
16 counted; and
- 17 (l) The number of out-of-state, overseas, and service ballots  
18 rejected.

19 (2) The county auditor shall prepare and make publicly available at  
20 the auditor's office or on the auditor's web site within thirty days of  
21 certification a final election reconciliation report that discloses the  
22 following information:

- 23 (a) The number of registered voters;
- 24 (b) The total number of voters credited with voting;
- 25 (c) The number of poll voters credited with voting;
- 26 (d) The number of provisional voters credited with voting;
- 27 (e) The number of absentee voters credited with voting;
- 28 (f) The number of federal write-in voters credited with voting;
- 29 (g) The number of out-of-state, overseas, and service voters  
30 credited with voting;
- 31 (h) The total number of voters credited with voting even though  
32 their ballots were postmarked after election day and were not counted;  
33 and
- 34 (i) Any other information the auditor deems necessary to reconcile  
35 the number of ballots counted with the number of voters credited with  
36 voting.

37 (3) The county auditor may also prepare such reports for  
38 jurisdictions located, in whole or in part, in the county.

1       **Sec. 12.** RCW 29A.60.021 and 2004 c 271 s 147 are each amended to  
2 read as follows:

3       (1) For any office at any election or primary, any voter may write  
4 in on the ballot the name of any person for an office who has filed as  
5 a write-in candidate for the office in the manner provided by RCW  
6 29A.24.311 and such vote shall be counted the same as if the name had  
7 been printed on the ballot and marked by the voter. ~~((For a partisan  
8 primary in a jurisdiction using the physically separate ballot format,  
9 a voter may write in on a party ballot only the names of write-in  
10 candidates who affiliate with that major political party.))~~ No write-  
11 in vote made for any person who has not filed a declaration of  
12 candidacy pursuant to RCW 29A.24.311 is valid if that person filed for  
13 the same office, either as a regular candidate or a write-in candidate,  
14 at the preceding primary. Any abbreviation used to designate  
15 office~~((7))~~ or position~~((7, or political party shall))~~ will be accepted  
16 if the canvassing board can determine, to ~~((their))~~ its satisfaction,  
17 the voter's intent.

18       (2) The number of write-in votes cast for each office must be  
19 recorded and reported with the canvass for the election.

20       (3) A write-in vote for an individual candidate for an office whose  
21 name appears on the ballot for that same office is a valid vote for  
22 that candidate as long as the candidate's name is clearly discernible,  
23 even if other requirements of RCW 29A.24.311 are not satisfied and even  
24 if the voter also marked a vote for that candidate such as to register  
25 an overvote. These votes need not be tabulated unless: (a) The  
26 difference between the number of votes cast for the candidate  
27 apparently qualified to appear on the general election ballot or  
28 elected and the candidate receiving the next highest number of votes is  
29 less than the sum of the total number of write-in votes cast for the  
30 office plus the overvotes and undervotes recorded by the vote  
31 tabulating system; or (b) a manual recount is conducted for that  
32 office.

33       (4) Write-in votes cast for an individual candidate for an office  
34 whose name does not appear on the ballot need not be tallied ((if))  
35 unless the total number of write-in votes and undervotes recorded by  
36 the vote tabulation system for the office is ~~((not))~~ greater than the  
37 number of votes cast for the candidate apparently ~~((nominated))~~  
38 qualified to appear on the general election ballot or elected((7, and

1 the write in votes could not have altered the outcome of the primary or  
2 election. In the case of write in votes for statewide office or for  
3 any office whose jurisdiction encompasses more than one county, write  
4 in votes for an individual candidate must be tallied whenever the  
5 county auditor is notified by either the office of the secretary of  
6 state or another auditor in a multicounty jurisdiction that it appears  
7 that the write in votes could alter the outcome of the primary or  
8 election)).

9 ~~((4))~~ (5) In the case of write-in votes for a statewide  
10 office~~((s))~~ or any office whose jurisdiction~~((s that))~~ encompasses more  
11 than one county, ~~((if the total number of write in votes and undervotes~~  
12 ~~recorded by the vote tabulation system for an office within a county is~~  
13 ~~greater than the number of votes cast for a candidate apparently~~  
14 ~~nominated or elected in a primary or election, the auditor shall tally~~  
15 ~~all write in votes for individual candidates for that office and notify~~  
16 ~~the office of the secretary of state and the auditors of the other~~  
17 ~~counties within the jurisdiction, that the write in votes for~~  
18 ~~individual candidates should be tallied))~~ write-in votes for an  
19 individual candidate must be tallied when the county auditor is  
20 notified by either the secretary of state or another county auditor in  
21 the multicounty jurisdiction that it appears that the write-in votes  
22 must be tabulated under the terms of this section. In all other cases,  
23 the county auditor determines when write-in votes must be tabulated.  
24 Any abstract of votes must be modified to reflect the tabulation and  
25 certified by the canvassing board. Tabulation of write-in votes may be  
26 performed simultaneously with a recount.

27 **Sec. 13.** RCW 29A.60.050 and 2003 c 111 s 1505 are each amended to  
28 read as follows:

29 Whenever the precinct election officers or the counting center  
30 personnel have a question about the validity of a ballot or the votes  
31 for an office or issue that they are unable to resolve, they shall  
32 prepare and sign a concise record of the facts in question or dispute.  
33 These ballots shall be delivered to the canvassing board for  
34 processing. A ballot is not considered rejected until the canvassing  
35 board has rejected the ballot individually, or the ballot was included  
36 in a batch or on a report of ballots that was rejected in its entirety

1 by the canvassing board. All ballots shall be preserved in the same  
2 manner as valid ballots for that primary or election.

3 **Sec. 14.** RCW 29A.60.070 and 2003 c 111 s 1507 are each amended to  
4 read as follows:

5 The county auditor shall produce cumulative and precinct returns  
6 for each primary and election and deliver them to the canvassing board  
7 for verification and certification. The precinct and cumulative  
8 returns of any primary or election are public records under chapter  
9 42.17 RCW.

10 Cumulative returns for state offices, judicial offices, the United  
11 States senate, and congress must be electronically transmitted to the  
12 secretary of state immediately.

13 **Sec. 15.** RCW 29A.60.160 and 2003 c 111 s 1516 are each amended to  
14 read as follows:

15 ~~((At least every third day after a primary or election and before~~  
16 ~~certification of the election results,))~~ Except Sundays and legal  
17 holidays, the county auditor, as delegated by the county canvassing  
18 board, shall process absentee ballots and canvass the votes cast at  
19 that primary or election on a daily basis in counties with a population  
20 of seventy-five thousand or more, or at least every third day for  
21 counties with a population of less than seventy-five thousand, if the  
22 county auditor is in possession of more than twenty-five ballots that  
23 have yet to be canvassed. The county auditor, as delegated by the  
24 county canvassing board, may use his or her discretion in determining  
25 when to process the remaining absentee ballots and canvass the votes  
26 during the final four days before the certification of election results  
27 in order to protect the secrecy of any ballot. In counties where this  
28 process has not been delegated to the county auditor, the county  
29 auditor shall convene the county canvassing board to process absentee  
30 ballots and canvass the votes cast at the primary or election as set  
31 forth in this section.

32 Each absentee ballot previously not canvassed that was received by  
33 the county auditor two days or more before processing absentee ballots  
34 and canvassing the votes as delegated by or processed by the county  
35 canvassing board, that either was received by the county auditor before  
36 the closing of the polls on the day of the primary or election for

1 which it was issued, or that bears a postmark on or before the primary  
2 or election for which it was issued, must be processed at that time.  
3 The tabulation of votes that results from that day's canvass must be  
4 made available to the general public immediately upon completion of the  
5 canvass.

6 **Sec. 16.** RCW 29A.60.190 and 2004 c 266 s 18 are each amended to  
7 read as follows:

8 (1) (~~On the tenth day after a special election or primary and on~~  
9 ~~the fifteenth day~~) Ten days after a primary or special election and  
10 twenty-one days after a general election, the county canvassing board  
11 shall complete the canvass and certify the results. Each absentee  
12 ballot that was returned before the closing of the polls on the date of  
13 the primary or election for which it was issued, and each absentee  
14 ballot with a postmark on or before the date of the primary or election  
15 for which it was issued and received on or before the date on which the  
16 primary or election is certified, must be included in the canvass  
17 report.

18 (2) At the request of a caucus of the state legislature, the county  
19 auditor shall transmit copies of all unofficial returns of state and  
20 legislative primaries or elections prepared by or for the county  
21 canvassing board to either the secretary of the senate or the chief  
22 clerk of the house of representatives.

23 **Sec. 17.** RCW 29A.60.210 and 2003 c 111 s 1521 are each amended to  
24 read as follows:

25 Whenever the canvassing board finds during the initial counting  
26 process, or during any subsequent recount thereof, that there is an  
27 apparent discrepancy or an inconsistency in the returns of a primary or  
28 election, or that election staff has made an error regarding the  
29 treatment or disposition of a ballot, the board may recanvass the  
30 ballots or voting devices in any precincts of the county. The  
31 canvassing board shall conduct any necessary recanvass activity on or  
32 before the last day to certify or recertify the results of the primary  
33 ~~((or))~~, election, or subsequent recount and correct any error and  
34 document the correction of any error that it finds.

1       **Sec. 18.** RCW 29A.60.250 and 2003 c 111 s 1525 are each amended to  
2 read as follows:

3       As soon as the returns have been received from all the counties of  
4 the state, but not later than the thirtieth day after the election, the  
5 secretary of state shall ~~((make a))~~ canvass ~~((of such of the returns as  
6 are not required to be canvassed by the legislature and make out a  
7 statement thereof, file it in his or her office, and transmit a  
8 certified copy to the governor))~~ and certify the returns of the general  
9 election as to candidates for state offices, the United States senate,  
10 congress, and all other candidates whose districts extend beyond the  
11 limits of a single county. The secretary of state shall transmit a  
12 copy of the certification to the governor, president of the senate, and  
13 speaker of the house of representatives.

14       **Sec. 19.** RCW 29A.64.021 and 2004 c 271 s 178 are each amended to  
15 read as follows:

16       (1) If the official canvass of all of the returns for any office at  
17 any primary or election reveals that the difference in the number of  
18 votes cast for a candidate apparently nominated or elected to any  
19 office and the number of votes cast for the closest apparently defeated  
20 opponent is less than two thousand votes and also less than one-half of  
21 one percent of the total number of votes cast for both candidates, the  
22 county canvassing board shall conduct a recount of all votes cast on  
23 that position.

24       (a) Whenever such a difference occurs in the number of votes cast  
25 for candidates for a position the declaration of candidacy for which  
26 was filed with the secretary of state, the secretary of state shall,  
27 within three business days of the day that the returns of the primary  
28 or election are first certified by the canvassing boards of those  
29 counties, direct those boards to recount all votes cast on the  
30 position.

31       (b)(i) For statewide elections, if the difference in the number of  
32 votes cast for the apparent winner and the closest apparently defeated  
33 opponent is less than one ~~((hundred fifty))~~ thousand votes and also  
34 less than one-fourth of one percent of the total number of votes cast  
35 for both candidates, the votes shall be recounted manually or as  
36 provided in subsection (3) of this section.

1        (ii) For elections not included in (b)(i) of this subsection, if  
2 the difference in the number of votes cast for the apparent winner and  
3 the closest apparently defeated opponent is less than one hundred fifty  
4 votes and also less than one-fourth of one percent of the total number  
5 of votes cast for both candidates, the votes shall be recounted  
6 manually or as provided in subsection (3) of this section.

7        (2) A mandatory recount shall be conducted in the manner provided  
8 by RCW 29A.64.030, 29A.64.041, and 29A.64.061. No cost of a mandatory  
9 recount may be charged to any candidate.

10        (3) The apparent winner and closest apparently defeated opponent  
11 for an office for which a manual recount is required under subsection  
12 (1)(b) of this section may select an alternative method of conducting  
13 the recount. To select such an alternative, the two candidates shall  
14 agree to the alternative in a signed, written statement filed with the  
15 election official for the office. The recount shall be conducted using  
16 the alternative method if: It is suited to the balloting system that  
17 was used for casting the votes for the office; it involves the use of  
18 a vote tallying system that is approved for use in this state by the  
19 secretary of state; and the vote tallying system is readily available  
20 in each county required to conduct the recount. If more than one  
21 balloting system was used in casting votes for the office, an  
22 alternative to a manual recount may be selected for each system.

23        **Sec. 20.** RCW 29A.64.030 and 2003 c 111 s 1603 are each amended to  
24 read as follows:

25        An application for a recount shall state the office for which a  
26 recount is requested and whether the request is for all or only a  
27 portion of the votes cast in that jurisdiction of that office. The  
28 person filing an application for a manual recount shall, at the same  
29 time, deposit with the county canvassing board or secretary of state,  
30 in cash or by certified check, a sum equal to twenty-five cents for  
31 each ballot cast in the jurisdiction or portion of the jurisdiction for  
32 which the recount is requested as security for the payment of any costs  
33 of conducting the recount. If the application is for a machine  
34 recount, the deposit must be equal to fifteen cents for each ballot.  
35 These charges shall be determined by the county canvassing board or  
36 boards under RCW (~~29A.64.080~~) 29A.64.081.

1       The county canvassing board shall determine ((a)) the date, time,  
2 and ((a)) place or places at which the recount will be conducted.  
3 ~~((This time shall be less than three business days after the day upon~~  
4 ~~which: The application was filed with the board; the request for a~~  
5 ~~recount or directive ordering a recount was received by the board from~~  
6 ~~the secretary of state; or the returns are certified which indicate~~  
7 ~~that a recount is required under RCW 29A.64.020 for an issue or office~~  
8 ~~voted upon only within the county.)) Not less than two days before the  
9 date of the recount, the county auditor shall mail a notice of the time  
10 and place of the recount to the applicant or affected parties and, if  
11 the recount involves an office, to any person for whom votes were cast  
12 for that office. The county auditor shall also notify the affected  
13 parties by either telephone, fax, e-mail, or other electronic means at  
14 the time of mailing. At least three attempts must be made over a two-  
15 day period to notify the affected parties or until the affected parties  
16 have received the notification. Each attempt to notify affected  
17 parties must request a return response indicating that the notice has  
18 been received. Each person entitled to receive notice of the recount  
19 may attend, witness the recount, and be accompanied by counsel.~~

20       Proceedings of the canvassing board are public under chapter 42.30  
21 RCW. Subject to reasonable and equitable guidelines adopted by the  
22 canvassing board, all interested persons may attend and witness a  
23 recount.

24       **Sec. 21.** RCW 29A.64.061 and 2004 c 271 s 180 are each amended to  
25 read as follows:

26       Upon completion of the canvass of a recount, the canvassing board  
27 shall prepare and certify an amended abstract showing the votes cast in  
28 each precinct for which the recount was conducted. Copies of the  
29 amended abstracts must be transmitted to the same officers who received  
30 the abstract on which the recount was based.

31       If the nomination, election, or issue for which the recount was  
32 conducted was submitted only to the voters of a county, the canvassing  
33 board shall file the amended abstract with the original results of that  
34 election or primary.

35       If the nomination, election, or issue for which a recount was  
36 conducted was submitted to the voters of more than one county, the  
37 secretary of state shall canvass the amended abstracts and shall file

1 an amended abstract with the original results of that election. The  
2 secretary of state may require that the amended abstracts be certified  
3 by each canvassing board on a uniform date. An amended abstract  
4 certified under this section supersedes any prior abstract of the  
5 results for the same offices or issues at the same primary or election.

6 **Sec. 22.** RCW 29A.68.011 and 2004 c 271 s 182 are each amended to  
7 read as follows:

8 Any justice of the supreme court, judge of the court of appeals, or  
9 judge of the superior court in the proper county shall, by order,  
10 require any person charged with error, wrongful act, or neglect to  
11 forthwith correct the error, desist from the wrongful act, or perform  
12 the duty and to do as the court orders or to show cause forthwith why  
13 the error should not be corrected, the wrongful act desisted from, or  
14 the duty or order not performed, whenever it is made to appear to such  
15 justice or judge by affidavit of an elector that:

16 (1) An error or omission has occurred or is about to occur in  
17 printing the name of any candidate on official ballots; or

18 (2) An error other than as provided in subsections (1) and (3) of  
19 this section has been committed or is about to be committed in printing  
20 the ballots; or

21 (3) The name of any person has been or is about to be wrongfully  
22 placed upon the ballots; or

23 (4) A wrongful act other than as provided for in subsections (1)  
24 and (3) of this section has been performed or is about to be performed  
25 by any election officer; or

26 (5) Any neglect of duty on the part of an election officer other  
27 than as provided for in subsections (1) and (3) of this section has  
28 occurred or is about to occur; or

29 (6) An error or omission has occurred or is about to occur in the  
30 issuance of a certificate of election.

31 An affidavit of an elector under subsections (1) and (3) (~~above~~)  
32 of this section when relating to a primary election must be filed with  
33 the appropriate court no later than the second Friday following the  
34 closing of the filing period for nominations for such office and shall  
35 be heard and finally disposed of by the court not later than five days  
36 after the filing thereof. An affidavit of an elector under subsections  
37 (1) and (3) of this section when relating to a general election must be

1 filed with the appropriate court no later than three days following the  
2 official certification of the primary election returns and shall be  
3 heard and finally disposed of by the court not later than five days  
4 after the filing thereof. An affidavit of an elector under subsection  
5 (6) of this section shall be filed with the appropriate court no later  
6 than ten days following the (~~issuance of a certificate of election~~)  
7 official certification of the election as provided in RCW 29A.60.190,  
8 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after  
9 the official certification of the amended abstract as provided in RCW  
10 29A.64.061.

11 NEW SECTION. Sec. 23. A new section is added to chapter 29A.84  
12 RCW to read as follows:

13 A person who knowingly destroys, alters, defaces, conceals, or  
14 discards a completed voter registration form or signed absentee or  
15 provisional ballot signature affidavit is guilty of a gross  
16 misdemeanor. This section does not apply to (1) the voter who  
17 completed the voter registration form, or (2) a county auditor or  
18 registration assistant who acts as authorized by voter registration  
19 law.

20 **Sec. 24.** RCW 29A.84.650 and 2003 c 111 s 2131 are each amended to  
21 read as follows:

22 (1) Any person who intentionally votes or attempts to vote in this  
23 state more than once at any (~~primary or general or special~~) election,  
24 or who intentionally votes or attempts to vote in both this state and  
25 another state at any election, is guilty of a (~~gross misdemeanor,~~  
26 punishable to the same extent as a gross misdemeanor that is punishable  
27 under RCW 9A.20.021)) class C felony.

28 (2) Any person who recklessly or negligently violates this section  
29 commits a class 1 civil infraction as provided in RCW 7.80.120.

30 NEW SECTION. Sec. 25. The secretary of state shall study the  
31 feasibility of requiring that the names of the top two vote-getters in  
32 primary elections of justices of the state supreme court, judges of the  
33 courts of appeals, superior courts, and district courts, and the  
34 superintendent of public instruction shall appear on the general  
35 election ballot. The study shall include a survey of how many times a

1 judicial candidate and a candidate for superintendent of public  
2 instruction have appeared without opposition on the general election  
3 ballot from 1985 to present; the number of voters voting for these  
4 races in the primary election as opposed to voting for the same races  
5 in the general election; and if the differences in the numbers of  
6 voters voting at the primary and voting at the general election may  
7 have resulted in a different election result. The study shall also  
8 include a financial analysis of the proposed changes. The secretary of  
9 state shall report the results of the study to the appropriate  
10 committees of the legislature no later than January 31, 2006."

11 Correct the title.

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