
HOUSE BILL 1552

State of Washington

57th Legislature

2001 Regular Session

By Representative D. Schmidt

Read first time 01/29/2001. Referred to Committee on State Government.

1 AN ACT Relating to elections; amending RCW 29.36.010, 29.36.013,
2 29.36.170, 29.36.030, 29.36.035, 29.36.045, 29.36.060, 29.36.070,
3 29.36.075, 29.36.097, 29.36.100, 29.36.150, 29.36.160, 29.36.121,
4 29.36.124, 29.36.126, 29.36.130, 29.36.050, 29.54.085, 29.62.180,
5 29.04.055, and 29.62.090; reenacting and amending RCW 29.36.120 and
6 29.54.050; adding new sections to chapter 29.36 RCW; adding a new
7 section to chapter 29.54 RCW; adding a new section to chapter 29.51
8 RCW; adding a new chapter to Title 29 RCW; creating a new section;
9 recodifying RCW 29.36.010, 29.36.013, 29.36.170, 29.36.030, 29.36.035,
10 29.36.045, 29.36.060, 29.36.070, 29.36.075, 29.36.097, 29.36.100,
11 29.36.150, 29.36.160, 29.36.120, 29.36.121, 29.36.124, 29.36.126,
12 29.36.130, and 29.36.050; repealing RCW 29.36.122 and 29.36.139; and
13 prescribing penalties.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

15

PART I

16

ABSENTEE VOTING

17 **Sec. 1.** RCW 29.36.010 and 1991 c 81 s 29 are each amended to read
18 as follows:

1 ABSENTEE BALLOT VOTING. Any registered voter of the state or any
2 out-of-state voter, overseas voter, or service voter may vote by
3 absentee ballot in any general election, special election, or primary
4 in the manner provided in this chapter. Out-of-state voters, overseas
5 voters, and service voters are authorized to cast the same ballots,
6 including those for special elections, as a registered voter of the
7 state would receive under this chapter.

8 ~~((1) Except as provided in subsections (2) and (3) of this~~
9 ~~section, in RCW 29.36.013, and in RCW 29.36.170, a registered voter or~~
10 ~~elector desiring to cast an absentee ballot must request the absentee~~
11 ~~ballot from his or her county auditor no earlier than forty five days~~
12 ~~nor later than the day before any election or primary. Except as~~
13 ~~provided in subsection (3) of this section and in RCW 29.36.170, the~~
14 ~~request may be made orally in person, by telephone, or in writing. An~~
15 ~~application or request for an absentee ballot made under the authority~~
16 ~~of any federal statute or regulation shall be considered and given the~~
17 ~~same effect as a request for an absentee ballot under this chapter.~~

18 ~~(2) For any registered voter, a request for an absentee ballot for~~
19 ~~a primary shall be honored as a request for an absentee ballot for the~~
20 ~~following general election if the voter so indicates in his or her~~
21 ~~request. For any out of state voter, overseas voter, or service voter,~~
22 ~~a request for an absentee ballot for a primary election shall also be~~
23 ~~honored as a request for an absentee ballot for the following general~~
24 ~~election.~~

25 ~~(3) A voter admitted to a hospital no earlier than five days before~~
26 ~~a primary or election and confined to the hospital on election day may~~
27 ~~apply by messenger for an absentee ballot on the day of the primary or~~
28 ~~election if a signed statement from the hospital administrator, or~~
29 ~~designee, verifying the voter's date of admission and status as a~~
30 ~~patient in the hospital on the day of the primary or election is~~
31 ~~attached to the voter's written application for an absentee ballot.~~

32 ~~(4) In a voter's request for an absentee ballot, the voter shall~~
33 ~~state the address to which the absentee ballot should be sent. A~~
34 ~~request for an absentee ballot from an out of state voter, overseas~~
35 ~~voter, or service voter shall state the address of that elector's last~~
36 ~~residence for voting purposes in the state of Washington and either a~~
37 ~~written application or the oath on the return envelope shall include a~~
38 ~~declaration of the other qualifications of the applicant as an elector~~
39 ~~of this state. A request for an absentee ballot from any other voter~~

1 shall state the address at which that voter is currently registered to
2 vote in the state of Washington or the county auditor shall verify such
3 information from the voter registration records of the county.

4 (5) A request for an absentee ballot from a registered voter who is
5 within this state shall be made directly to the auditor of the county
6 in which the voter is registered. An absentee ballot request from a
7 registered voter who is temporarily outside this state or from an out-
8 of-state voter, overseas voter, or service voter may be made either to
9 the appropriate county auditor or to the secretary of state, who shall
10 promptly forward the request to the appropriate county auditor. No
11 person, organization, or association may distribute absentee ballot
12 applications within this state that contain any return address other
13 than that of the appropriate county auditor.

14 (6) A person may request an absentee ballot for use by the person
15 as a registered voter and may request an absentee ballot on behalf of
16 any member of that person's immediate family who is a registered voter
17 for use by the family member. As a means of ensuring that a person who
18 requests an absentee ballot is requesting the ballot for only that
19 person or a member of the person's immediate family, the secretary of
20 state shall adopt rules prescribing the circumstances under which an
21 auditor: May require a person who requests an absentee ballot to
22 identify the date of birth of the voter for whom the ballot is
23 requested; and may deny a request which is not accompanied by this
24 information.))

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 29.36 RCW
26 to read as follows:

27 REQUEST FOR SINGLE ABSENTEE BALLOT. (1) Except as otherwise
28 provided by law, a registered voter or out-of-state voter, overseas
29 voter, or service voter desiring to cast an absentee ballot at a single
30 election or primary must request the absentee ballot from his or her
31 county auditor no earlier than ninety days nor later than the day of
32 the election or primary at which the person seeks to vote. Except as
33 otherwise provided by law, the request may be made orally in person, by
34 telephone, electronically, or in writing. An application or request
35 for an absentee ballot made under the authority of a federal statute or
36 regulation will be considered and given the same effect as a request
37 for an absentee ballot under this chapter.

1 (2) A voter requesting an absentee ballot for a primary may also
2 request an absentee ballot for the following general election. A
3 request by an out-of-state voter, overseas voter, or service voter for
4 an absentee ballot for a primary election will be considered as a
5 request for an absentee ballot for the following general election.

6 (3) In requesting an absentee ballot, the voter shall state the
7 address to which the absentee ballot should be sent. A request for an
8 absentee ballot from an out-of-state voter, overseas voter, or service
9 voter must include the address of the last residence in the state of
10 Washington and either a written application or the oath on the return
11 envelope must include a declaration of the other qualifications of the
12 applicant as an elector of this state. A request for an absentee
13 ballot from any other voter must state the address at which that voter
14 is currently registered to vote in the state of Washington or the
15 county auditor shall verify that information from the voter
16 registration records of the county.

17 (4) A request for an absentee ballot from a registered voter who is
18 within this state must be made directly to the auditor of the county in
19 which the voter is registered. An absentee ballot request from a
20 registered voter who is temporarily outside this state or from an out-
21 of-state voter, overseas voter, or service voter may be made either to
22 the appropriate county auditor or to the secretary of state, who shall
23 promptly forward the request to the appropriate county auditor. No
24 person, organization, or association may distribute absentee ballot
25 applications within this state that contain a return address other than
26 that of the appropriate county auditor.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 29.36 RCW
28 to read as follows:

29 REQUESTING ABSENTEE BALLOT FOR FAMILY MEMBER. A registered voter
30 may request an absentee ballot on behalf of and for use by a member of
31 his or her immediate family who is also a registered voter. As a means
32 of ensuring that a person who requests an absentee ballot is requesting
33 the ballot for only that person or a member of the person's immediate
34 family, the secretary of state shall adopt rules prescribing the
35 circumstances under which an auditor may require a person who requests
36 an absentee ballot to identify the date of birth of the voter for whom
37 the ballot is requested and under what circumstances the auditor may
38 deny a request that is not accompanied by this information.

1 **Sec. 4.** RCW 29.36.013 and 1999 c 298 s 12 are each amended to read
2 as follows:

3 REQUEST FOR ONGOING ABSENTEE VOTER STATUS. Any registered voter
4 may apply, in writing, for status as an ongoing absentee voter. Each
5 qualified applicant shall automatically receive an absentee ballot for
6 each ensuing election or primary for which ~~((he or she))~~ the voter is
7 entitled to vote and need not submit a separate request for each
8 election. Ballots received from ongoing absentee voters shall be
9 validated, processed, and tabulated in the same manner as other
10 absentee ballots.

11 Status as an ongoing absentee voter shall be terminated upon any of
12 the following events:

- 13 (1) The written request of the voter;
- 14 (2) The death or disqualification of the voter;
- 15 (3) The cancellation of the voter's registration record;
- 16 (4) The return of an ongoing absentee ballot as undeliverable; or
- 17 (5) Upon placing a voter on inactive status under RCW 29.10.071.

18 **Sec. 5.** RCW 29.36.170 and 1991 c 81 s 35 are each amended to read
19 as follows:

20 SPECIAL ABSENTEE BALLOT. (1) As provided in this section, county
21 auditors shall provide special absentee ballots to be used for state
22 primary or state general elections. An auditor shall provide a special
23 absentee ballot ~~((shall))~~ only ~~((be provided))~~ to a registered voter
24 who completes an application stating that(~~+~~

25 ~~(a) The voter believes that she or he will be residing or stationed~~
26 ~~or working outside the continental United States; and~~

27 ~~(b) The voter believes that))~~ she or he will be unable to vote and
28 return a regular absentee ballot by normal mail delivery within the
29 period provided for regular absentee ballots.

30 The application for a special absentee ballot may not be filed
31 earlier than ninety days before the applicable state primary or general
32 election. The special absentee ballot ~~((shall))~~ will list the offices
33 and measures, if known, scheduled to appear on the state primary or
34 general election ballot. The voter may use the special absentee ballot
35 to write in the name of any eligible candidate for each office and vote
36 on any measure.

37 (2) With any special absentee ballot issued under this section, the
38 county auditor shall include a listing of any candidates who have filed

1 before the time of the application for offices that will appear on the
2 ballot at that primary or election and a list of any issues that have
3 been referred to the ballot before the time of the application.

4 (3) Write-in votes on special absentee ballots (~~((shall))~~) must be
5 counted in the same manner provided by law for the counting of other
6 write-in votes. The county auditor shall process and canvass the
7 special absentee ballots provided under this section in the same manner
8 as other absentee ballots under chapters 29.36 and 29.62 RCW.

9 (4) A voter who requests a special absentee ballot under this
10 section may also request an absentee ballot under (~~(RCW 29.36.010)~~)
11 section 2(4) of this act. If the regular absentee ballot is properly
12 voted and returned, the special absentee ballot (~~((shall be deemed))~~) is
13 void, and the county auditor shall reject it in whole when special
14 absentee ballots are canvassed.

15 **Sec. 6.** RCW 29.36.030 and 1991 c 81 s 31 are each amended to read
16 as follows:

17 ISSUANCE OF ABSENTEE BALLOT. (1) The county auditor shall issue an
18 absentee ballot for the primary or election for which it was requested,
19 or for the next occurring primary or election when ongoing absentee
20 status has been requested if the information contained in a request for
21 an absentee ballot or ongoing absentee status received by the county
22 auditor is complete and correct and the applicant is qualified to vote
23 under federal or state law(~~(, the county auditor shall issue an~~
24 ~~absentee ballot for the primary or election for which the absentee~~
25 ~~ballot was requested))~~). Otherwise, the county auditor shall notify the
26 applicant of the reason or reasons why the request cannot be accepted.
27 Whenever two or more candidates have filed for the position of precinct
28 committee officer for the same party in the same precinct at a general
29 election held in an even-numbered year, the contest for that position
30 must be presented to absentee voters from that precinct by either
31 including the contest on the regular absentee ballot or a separate
32 absentee ballot. The ballot must provide space designated for writing
33 in the name of additional candidates.

34 (~~(At each general election in an even-numbered year, each absentee~~
35 ~~voter shall also be given a separate ballot containing the names of the~~
36 ~~candidates that have filed for the office of precinct committee officer~~
37 ~~unless fewer than two candidates have filed for the same political~~

1 party in the absentee voter's precinct. The ballot shall provide space
2 for writing in the name of additional candidates.

3 When mailing an absentee ballot to a registered voter temporarily
4 outside the state or to an out-of-state voter, overseas voter, or
5 service voter, the county auditor shall send a)) (2) The county auditor
6 may issue replacement absentee ballots to a registered voter who both:
7 (a) Requested an absentee ballot before election or primary day or is
8 an ongoing absentee voter; and (b) did not receive the regular absentee
9 ballot or whose regular absentee ballot was damaged, lost, or
10 destroyed. A registered voter may request a replacement absentee
11 ballot in person, by mail, by telephone, or by other electronic
12 transmission for himself or herself and for any member of his or her
13 immediate family. The request must be received by the county auditor
14 before 8:00 p.m. on election or primary day. The county auditor shall
15 maintain a record of each replacement absentee ballot issued, including
16 the date of the request. A replacement absentee ballot may be counted
17 in the final tabulation of ballots only if the original absentee ballot
18 is not received by the county auditor and the replacement absentee
19 ballot meets all requirements for tabulation necessary for the
20 tabulation of regular absentee ballots.

21 (3) A copy of the state voters' and candidates' pamphlet must be
22 sent to registered voters temporarily outside the state, out-of-state
23 voters, overseas voters, and service voters along with the absentee
24 ballot if such a pamphlet has been prepared for the primary or
25 election. The county auditor shall mail all absentee ballots and
26 related material to voters outside the territorial limits of the United
27 States and the District of Columbia under 39 U.S.C. 3406.

28 **Sec. 7.** RCW 29.36.035 and 1984 c 27 s 2 are each amended to read
29 as follows:

30 DELIVERY OF ABSENTEE BALLOT. The delivery of an absentee ballot
31 for any primary or election shall be subject to the following
32 qualifications:

33 (1) Only the registered voter((, himself)) personally, or a member
34 of ((his)) the registered voter's immediate family may pick up an
35 absentee ballot for the voter at the office of the issuing officer
36 unless the voter is ((hospitalized)) a resident of a health care
37 facility, as defined by RCW 70.37.020(3), on election day and applies
38 by messenger ((in accordance with RCW 29.36.010)) for an absentee

1 ballot (~~on the day of the primary or election~~). In this latter case,
2 the messenger may pick up the (~~hospitalized~~) voter's absentee ballot.

3 (2) Except as noted in subsection (1) (~~above~~) of this section,
4 the issuing officer shall mail or deliver the absentee ballot directly
5 to each applicant.

6 (~~(3) No absentee ballot shall be issued on the day of the primary
7 or election concerned, except as provided by RCW 29.36.010, for a voter
8 confined to a hospital on the day of a primary or election.~~)

9 **Sec. 8.** RCW 29.36.045 and 1987 c 346 s 12 are each amended to read
10 as follows:

11 ENVELOPES AND INSTRUCTIONS. The county auditor shall send each
12 absentee voter a ballot, a security envelope in which to seal the
13 ballot after voting, a larger envelope in which to return the security
14 envelope, and instructions on how to mark the ballot and how to return
15 it to the county auditor. The larger return envelope (~~shall~~) must
16 contain a declaration by the absentee voter reciting his or her
17 qualifications and stating that he or she has not voted in any other
18 jurisdiction at this election, together with a summary of the penalties
19 for any violation of any of the provisions of this chapter. The return
20 envelope (~~shall~~) must provide space for the voter to indicate the
21 date on which the ballot was voted and for the voter to sign the oath.
22 A summary of the applicable penalty provisions of this chapter
23 (~~shall~~) must be printed on the return envelope immediately adjacent
24 to the space for the voter's signature. The signature of the voter on
25 the return envelope (~~shall~~) must affirm and attest to the statements
26 regarding the qualifications of that voter and to the validity of the
27 ballot. For out-of-state voters, overseas voters, and service voters,
28 the signed declaration on the return envelope constitutes the
29 equivalent of a voter registration for the election or primary for
30 which the ballot has been issued. The voter (~~shall~~) must be
31 instructed to either return the ballot to the county auditor by whom it
32 was issued or attach sufficient first class postage, if applicable, and
33 mail the ballot to the appropriate county auditor no later than the day
34 of the election or primary for which the ballot was issued.

35 If the county auditor chooses to forward absentee ballots, a clear
36 explanation of the qualifications necessary to vote in that election
37 must be included with the ballot and voters must be advised to contact
38 the county auditor if they have questions about their eligibility.

1 This explanation may be provided on the ballot envelope, on an enclosed
2 insert, or printed directly on the ballot itself. If the information
3 is not included, the envelope must clearly indicate that the ballot is
4 not to be forwarded and that return postage is guaranteed.

5 NEW SECTION. Sec. 9. A new section is added to chapter 29.36 RCW
6 to read as follows:

7 DEFINITIONS. For purposes of canvassing and counting absentee
8 ballots:

9 (1) "Initial processing" means all steps taken to prepare absentee
10 ballots for tabulation, except for the reading of ballots by an
11 electronic vote tallying system. Initial processing includes, but is
12 not limited to, verification of signatures on return envelopes; removal
13 of security envelopes from the return envelopes; removal of ballots
14 from the security envelopes; manual inspection for damage, for write-in
15 votes, and for incorrect or incomplete marks; duplication of damaged
16 and write-in ballots; and other preparation of ballots for final
17 processing.

18 (2) "Final processing" means the reading of ballots by an
19 electronic vote tallying system, but does not include tabulation.

20 (3) "Tabulation" means the production of returns of votes cast
21 regarding candidates or measures in a form that can be read by a
22 person, whether as precinct totals, partial cumulative totals, or final
23 cumulative totals.

24 NEW SECTION. Sec. 10. A new section is added to chapter 29.36 RCW
25 to read as follows:

26 OBSERVERS. (1) Before initial processing of absentee ballots, the
27 county auditor shall notify the county chair of each major political
28 party of the time and date on which absentee processing will begin, and
29 shall request that each major political party appoint official
30 observers to observe the processing and tabulation of absentee ballots.
31 If a major political party has appointed observers, the observers may
32 be present for initial processing, final processing, or tabulation, if
33 they so choose, but failure to appoint or attend does not preclude the
34 processing or tabulation of absentee ballots.

35 (2) The auditor shall adopt administrative procedures for the
36 initial and final processing of absentee ballots. Copies of these

1 administrative procedures must be made available to the political party
2 observers, and to the public upon request.

3 **Sec. 11.** RCW 29.36.060 and 1991 c 81 s 32 are each amended to read
4 as follows:

5 PROCESSING ABSENTEE BALLOTS. (~~The opening and subsequent~~
6 ~~processing of return envelopes for any primary or election may begin on~~
7 ~~or after the tenth day prior to such primary or election. The opening~~
8 ~~of the security envelopes and tabulation of absentee ballots shall not~~
9 ~~commence until after 8:00 o'clock p.m. on the day of the primary or~~
10 ~~election.~~

11 ~~After opening the return envelopes, the county canvassing board~~
12 ~~shall place all of the ballot envelopes in containers that can be~~
13 ~~secured with numbered seals. These sealed containers shall be stored~~
14 ~~in a secure location until after 8:00 o'clock p.m. of the day of the~~
15 ~~primary or election. Absentee ballots that are to be tabulated on an~~
16 ~~electronic vote tallying system may be taken from the inner envelopes~~
17 ~~and all the normal procedural steps may be performed to prepare these~~
18 ~~ballots for tabulation before sealing the containers.))~~

19 (1) Before opening an outer return envelope that contains the
20 security envelope and absentee ballot, the canvassing board, or its
21 designated representatives, shall examine the postmark, statement, and
22 signature ((on each return envelope containing the security envelope
23 and absentee ballot)). They shall verify that the voter's signature on
24 the return envelope is the same as the signature of that voter in the
25 registration files ((for that voter)) of the county. For ((absentee))
26 registered voters ((other than out-of-state voters, overseas voters,
27 and service voters, if the postmark is illegible)) casting absentee
28 ballots, the date on the return envelope to which the voter ((attests
29 shall)) has attested determines the validity, as to the time of
30 voting((, of)) for that absentee ballot ((under this chapter)) if the
31 postmark is missing or is illegible. For overseas voters and service
32 voters, the date on the return envelope to which the voter has attested
33 determines the validity as to the time of voting for that absentee
34 ballot. For any absentee ((voter)) ballot, a variation between the
35 signature of the voter on the return envelope and the signature of that
36 voter in the registration files due to the substitution of initials or
37 the use of common nicknames is permitted so long as the surname and
38 handwriting are clearly the same.

1 (2) Outer return envelopes for a primary or election may be opened
2 for initial processing on or after the tenth day before that primary or
3 election.

4 (3) After opening the outer return envelopes, the county canvassing
5 board, or its designated representatives, shall either:

6 (a) Place all of the inner security envelopes containing the
7 absentee ballots in containers, and secure the containers with numbered
8 seals; or

9 (b) In the case of absentee ballots that will be tabulated on an
10 electronic vote tallying system, open the inner security envelopes,
11 perform the initial processing, place the absentee ballots in
12 containers, and keep the containers in secure storage until the ballots
13 are ready for final processing.

14 (4) The canvassing board, or its designated representatives, shall
15 establish audit procedures that insure that the absentee ballots are
16 kept in secure storage during the initial processing period.

17 (5) The absentee ballots must not be removed from secure storage
18 until final processing begins. Final processing may not begin before
19 7:00 a.m. on the day of the primary or election. In counties using
20 electronic vote tallying systems, the absentee ballots must be
21 tabulated under continuous observation of representatives of the major
22 political parties, and all other security provisions required by the
23 secretary of state under RCW 29.04.210 and 29.36.150. No results from
24 tabulation of absentee ballots may be produced or distributed until
25 after 8:00 p.m. on the day of the primary or election.

26 **Sec. 12.** RCW 29.36.070 and 1990 c 262 s 2 are each amended to read
27 as follows:

28 COUNTING ABSENTEE BALLOTS. The absentee ballots (~~shall be grouped~~
29 ~~and counted by~~) must be reported at a minimum on a congressional and
30 legislative district ((without regard to)) basis. Absentee ballots may
31 be counted by congressional or legislative basis or by individual
32 precinct, except as required under RCW 29.62.090(2).

33 These returns (~~shall~~) must be added to the total of the votes
34 cast at the polling places.

35 **Sec. 13.** RCW 29.36.075 and 1988 c 181 s 3 are each amended to read
36 as follows:

1 CREDIT FOR VOTING. (~~In counties that do not tabulate absentee~~
2 ~~ballots on electronic vote tallying systems, canvassing boards may not~~
3 ~~tabulate or record votes cast by absentee ballots on any uncontested~~
4 ~~office except write in votes for candidates for the office of precinct~~
5 ~~committeeperson who have filed valid declarations of candidacy under~~
6 ~~RCW 29.04.180. "Uncontested office" means an office where only one~~
7 ~~candidate has filed a valid declaration of candidacy either during the~~
8 ~~regular filing period or as a write in candidate under RCW 29.04.180.)~~)

9 Each registered voter casting an absentee ballot (~~shall~~) will be
10 credited with voting on his or her voter registration record.
11 Absentee ballots (~~shall~~) must be retained for the same length of time
12 and in the same manner as ballots cast at the precinct polling places.

13 **Sec. 14.** RCW 29.36.097 and 1991 c 81 s 33 are each amended to read
14 as follows:

15 ABSENTEE BALLOT RECORDS. Each county auditor shall maintain in his
16 or her office, open for public inspection and copying, a record of the
17 requests he or she has received for absentee ballots (~~under this~~
18 ~~chapter~~) and a listing of all ongoing absentee voters. Daily
19 cumulative lists of the names of voters whose absentee ballots have
20 been returned before each primary or election must be available.

21 The information from the requests (~~shall~~) must be recorded and
22 lists of this information (~~shall~~) must be available no later than
23 (~~twenty-four hours~~) the next business day after their receipt. Lists
24 of ongoing absentee voters must be available at all times.

25 This information about absentee voters (~~shall~~) requesting ballots
26 will be available according to the date of the requests and by
27 legislative district. It (~~shall~~) must include the name of each
28 applicant, the address and precinct in which the voter maintains a
29 voting residence, the date on which an absentee ballot was issued to
30 this voter, if applicable, the type of absentee ballot, and the address
31 to which the ballot was or is to be mailed, if applicable.

32 The auditor shall make copies of these records available to the
33 public in either paper or electronic format for the actual cost of
34 production or copying.

35 **Sec. 15.** RCW 29.36.100 and 1987 c 346 s 18 are each amended to
36 read as follows:

1 CHALLENGED ABSENTEE BALLOTS. The qualifications of any absentee
2 voter may be challenged at the time the signature on the return
3 envelope is verified and the ballot is processed by the canvassing
4 board. The board has the authority to determine the legality of any
5 absentee ballot challenged under this section. Challenged ballots must
6 be handled in accordance with chapter 29.10 RCW.

7 **Sec. 16.** RCW 29.36.150 and 1993 c 417 s 7 are each amended to read
8 as follows:

9 OVERSEAS AND SERVICE VOTERS. (~~The secretary of state shall adopt~~
10 ~~rules to:~~

11 ~~(1) Establish standards and procedures to prevent fraud and to~~
12 ~~facilitate the accurate processing and canvassing of absentee ballots~~
13 ~~and mail ballots;~~

14 ~~(2) Establish standards and procedures to guarantee the secrecy of~~
15 ~~absentee ballots and mail ballots;~~

16 ~~(3) Provide uniformity among the counties of the state in the~~
17 ~~conduct of absentee voting and mail ballot elections; and~~

18 ~~(4) Facilitate the operation of the provisions of this chapter~~
19 ~~regarding out-of-state voters, overseas voters, and service voters.))~~

20 The secretary of state shall produce and furnish envelopes and
21 instructions for out-of-state voters, overseas voters, and service
22 voters to the county auditors.

23 **Sec. 17.** RCW 29.36.160 and 1994 c 269 s 2 are each amended to read
24 as follows:

25 PENALTY. A person who willfully violates any provision of this
26 chapter regarding the assertion or declaration of qualifications to
27 receive or cast an absentee ballot(~~(7)~~) or unlawfully casts a vote by
28 absentee ballot(~~(7 or willfully violates any provision regarding the~~
29 ~~conduct of mail ballot primaries or elections under RCW 29.36.120~~
30 ~~through 29.36.139))~~ is guilty of a class C felony punishable under RCW
31 9A.20.021. Except as provided in chapter 29.85 RCW a person who
32 willfully violates any other provision of this chapter is guilty of a
33 misdemeanor.

34 **PART II**
35 **MAIL BALLOTS**

1 **Sec. 18.** RCW 29.36.120 and 1994 c 269 s 1 and 1994 c 57 s 48 are
2 each reenacted and amended to read as follows:

3 MAIL BALLOT PRECINCTS. (~~((1) At any primary or election, general~~
4 ~~or special,)) The county auditor may(~~(, in)) designate any precinct~~
5 having fewer than two hundred active registered voters at the time of
6 closing of voter registration as provided in RCW 29.07.160(~~(, conduct~~
7 ~~the voting in that precinct by)) as a mail ballot precinct. (~~For any~~
8 ~~precinct having fewer than two hundred active registered voters where~~
9 ~~voting at a primary or a general election is conducted by mail ballot,~~
10 ~~the county auditor shall, not less than fifteen days prior to the date~~
11 ~~of that primary or general election, mail or deliver to each active and~~
12 ~~inactive registered voter within that precinct a notice that the voting~~
13 ~~in that precinct will be by mail ballot, an application form for a mail~~
14 ~~ballot, and a postage prepaid envelope, preaddressed to the issuing~~
15 ~~officer. A mail ballot shall be issued to each voter who returns a~~
16 ~~properly executed application to the county auditor no later than the~~
17 ~~day of that primary or general election. For all subsequent mail~~
18 ~~ballot elections in that precinct the application is valid so long as~~
19 ~~the voter remains active and qualified to vote.)) The county auditor
20 shall notify each registered voter by mail that for all future
21 primaries and elections the voting in his or her precinct will be by
22 mail ballot only. In determining the number of registered voters in a
23 precinct for the purposes of this section, persons who are ongoing
24 absentee voters under RCW 29.36.013 (as recodified by this act) shall
25 not be counted. Nothing in this section may be construed as altering
26 the vote tallying requirements of RCW 29.62.090.~~~~~~

27 (~~At any nonpartisan special election not being held in conjunction~~
28 ~~with a state primary or general election, the county, city, town, or~~
29 ~~district requesting the election pursuant to RCW 29.13.010 or 29.13.020~~
30 ~~may also request that the election be conducted by mail ballot. The~~
31 ~~county auditor may honor the request or may determine that the election~~
32 ~~is not to be conducted by mail ballot. The decision of the county~~
33 ~~auditor in this regard is final.~~

34 In no instance shall any special election be conducted by mail
35 ballot in any precinct with two hundred or more active registered
36 voters if candidates for partisan office are to be voted upon.

37 For all special elections not being held in conjunction with a
38 state primary or state general election where voting is conducted by
39 mail ballot, the county auditor shall, not less than fifteen days prior

1 to the date of such election, mail or deliver to each active registered
2 voter a mail ballot and an envelope, preaddressed to the issuing
3 officer.)) As soon as ballots are available, the county auditor shall
4 mail or deliver a ballot and an envelope, preaddressed to the issuing
5 officer, to each active registered voter. The auditor shall send each
6 inactive voter either a ballot or an application to receive a ballot.
7 The auditor shall determine which of the two is to be sent. If the
8 inactive voter returns a voted ballot, the ballot shall be counted and
9 the voter's status restored to active. If the inactive voter completes
10 and returns an application, a ballot shall be sent and the voter's
11 status restored to active.

12 ((~~(2) For a two year period beginning on June 9, 1994, and ending~~
13 ~~two years after June 9, 1994, the county auditor may conduct the voting~~
14 ~~in any precinct by mail for any primary or election, partisan or~~
15 ~~nonpartisan, using the procedures set forth in RCW 29.36.120 through~~
16 ~~29.36.139.))~~

17 If the precinct exceeds two hundred registered voters, or the
18 auditor determines to return to a polling place election environment,
19 the auditor shall notify each registered voter, by mail, of this and
20 shall provide the address of the polling place to be used.

21 **Sec. 19.** RCW 29.36.121 and 1994 c 57 s 49 are each amended to read
22 as follows:

23 MAIL BALLOT SPECIAL ELECTIONS. ((~~(1)~~)) At any nonpartisan special
24 election not being held in conjunction with a state primary or general
25 election, the county, city, town, or district requesting the election
26 pursuant to RCW 29.13.010 or 29.13.020 may also request that the
27 special election be conducted by mail ballot. The county auditor may
28 honor the request or may determine that the election is not to be
29 conducted by mail ballot. The decision of the county auditor in this
30 regard is final.

31 ((~~(2) In an odd numbered year, the county auditor may conduct by~~
32 ~~mail ballot a primary or a special election concurrently with the~~
33 ~~primary:~~

34 (a) ~~For any office or ballot measure of a special purpose district~~
35 ~~which is entirely within the county;~~

36 (b) ~~For any office or ballot measure of a special purpose district~~
37 ~~which lies in the county and one or more other counties if the auditor~~

1 ~~first secures the concurrence of the county auditors of those other~~
2 ~~counties to conduct the primary in this manner district wide; and~~

3 ~~(c) For any ballot measure or nonpartisan office of a county, city,~~
4 ~~or town if the auditor first secures the concurrence of the legislative~~
5 ~~authority of the county, city, or town involved.~~

6 ~~A primary in an odd numbered year may not be conducted by mail~~
7 ~~ballot in any precinct with two hundred or more active registered~~
8 ~~voters if a partisan office or state office or state ballot measure is~~
9 ~~to be voted upon at that primary in the precinct.~~

10 ~~(3)) For all special elections not being held in conjunction with~~
11 ~~a state primary or state general election where voting is conducted by~~
12 ~~mail ballot, the county auditor shall, not less than fifteen days~~
13 ~~before the date of such election, mail or deliver to each registered~~
14 ~~voter a mail ballot ((and an envelope, preaddressed to the issuing~~
15 ~~officer. The county auditor shall notify an election jurisdiction for~~
16 ~~which a primary is to be held that the primary will be conducted by~~
17 ~~mail ballot)). The auditor shall handle inactive voters in the same~~
18 ~~manner as inactive voters in mail ballot precincts.~~

19 ~~((4) To the extent they are not inconsistent with subsections (1)~~
20 ~~through (3) of this section, the laws governing the conduct of mail~~
21 ~~ballot special elections apply to nonpartisan primaries conducted by~~
22 ~~mail ballot.))~~

23 NEW SECTION. Sec. 20. ODD-YEAR PRIMARIES BY MAIL. In an odd-
24 numbered year, the county auditor may conduct a primary or a special
25 election by mail ballot concurrently with the primary:

26 (1) For an office or ballot measure of a special purpose district
27 that is entirely within the county;

28 (2) For an office or ballot measure of a special purpose district
29 that lies in the county and one or more other counties if the auditor
30 first secures the concurrence of the county auditors of those other
31 counties to conduct the primary in this manner district-wide; and

32 (3) For a ballot measure or nonpartisan office of a county, city,
33 or town if the auditor first secures the concurrence of the legislative
34 authority of the county, city, or town involved.

35 The county auditor shall notify an election jurisdiction for which
36 a primary is to be held that the primary will be conducted by mail
37 ballot.

1 A primary in an odd-numbered year may not be conducted by mail
2 ballot in a precinct with two hundred or more active registered voters
3 if a partisan office or state office or state ballot measure is to be
4 voted upon at that primary in the precinct.

5 To the extent they are not inconsistent with other provisions of
6 law, the laws governing the conduct of mail ballot special elections
7 apply to nonpartisan primaries conducted by mail ballot.

8 **Sec. 21.** RCW 29.36.124 and 1983 1st ex.s. c 71 s 3 are each
9 amended to read as follows:

10 DEPOSITING BALLOTS FOR MAIL BALLOT ELECTIONS. (1) If a county
11 auditor conducts an election or primary by mail, the county auditor
12 shall designate (~~((the county auditor's office or a central location in
13 the district in which the election is conducted as the single place to
14 obtain a replacement ballot. The county auditor also shall designate))~~)
15 one or more places for the deposit of ballots not returned by mail.
16 The places designated under this section shall be open on the date of
17 the election or primary for a period of thirteen hours, beginning at
18 7:00 a.m. and ending at 8:00 p.m.

19 (2) A registered voter may obtain a replacement mail ballot (~~((as
20 provided in this subsection))~~) if the mail ballot is destroyed,
21 (~~((spoiled))~~) damaged, lost, or not received by the voter. (~~((A
22 registered voter seeking a replacement ballot shall sign a sworn
23 statement that the ballot was destroyed, spoiled, lost, or not received
24 and shall present the statement to the county auditor no later than the
25 day of the election. Each spoiled ballot must be returned to the
26 county auditor before a new one is issued. The county auditor shall
27 keep a record of each replacement ballot provided under this
28 subsection))~~) A replacement mail ballot must be handled and counted in
29 the same manner as a replacement absentee ballot.

30 **Sec. 22.** RCW 29.36.126 and 1993 c 417 s 4 are each amended to read
31 as follows:

32 RETURN OF VOTED BALLOT BY VOTER. (~~((Upon receipt of the mail
33 ballot, the voter shall mark it, sign the return identification
34 envelope supplied with the ballot, and comply with the instructions
35 provided with the ballot. The voter may return the marked ballot to
36 the county auditor. The ballot must be returned))~~) A mail ballot must
37 be returned by mail in the same manner as an absentee ballot or placed

1 in the return identification envelope(~~((. If mailed, a ballot must be~~
2 ~~postmarked not later than the date of the election. Otherwise, the~~
3 ~~ballot must be))~~ and deposited at the office of the county auditor or
4 the designated place of deposit not later than 8:00 p.m. on the date of
5 the primary or election.

6 **Sec. 23.** RCW 29.36.130 and 1993 c 417 s 5 are each amended to read
7 as follows:

8 **BALLOT CONTENTS--COUNTING.** All mail ballots authorized by RCW
9 29.36.120 or 29.36.121 (~~((shall))~~) (as recodified by this act) or section
10 20 of this act must contain the same offices, names of nominees or
11 candidates, and propositions to be voted upon, including precinct
12 offices, as if the ballot had been voted in person at the polling
13 place. Except as otherwise provided (~~((in this chapter))~~) by law, mail
14 ballots (~~((shall))~~) must be (~~((issued and canvassed))~~) treated in the same
15 manner as absentee ballots issued (~~((pursuant to))~~) at the request of the
16 voter. (~~((The county canvassing board, at the request of the county~~
17 ~~auditor, may direct that mail ballots be counted on the day of the~~
18 ~~election. If such count is made, it must be done in secrecy in the~~
19 ~~presence of the canvassing board or their authorized representatives~~
20 ~~and the results not revealed to any unauthorized person until 8:00 p.m.~~
21 ~~or later if the auditor so directs.))~~) If electronic vote tallying
22 devices are used, political party observers (~~((shall be afforded))~~) must
23 be given the opportunity to be present, and a test of the equipment
24 must be performed as required by RCW 29.33.350 (~~((prior to the count~~
25 ~~of))~~) before tabulating ballots. Political party observers may select
26 at random ballots to be counted manually as provided by RCW 29.54.025.
27 Any violation of the secrecy of (~~((such))~~) the count (~~((shall be))~~) is
28 subject to the same penalties as provided for in RCW 29.85.225.

29 NEW SECTION. **Sec. 24.** PENALTY. A person who willfully violates
30 any provision of this chapter regarding the conduct of mail ballot
31 primaries or elections is guilty of a class C felony punishable under
32 RCW 9A.20.021.

33 **PART III**
34 **MISCELLANEOUS**

1 **Sec. 25.** RCW 29.36.050 and 1987 c 346 s 13 are each amended to
2 read as follows:

3 A registered voter shall not be allowed to vote a regular ballot in
4 the precinct in which he or she is registered at any election or
5 primary for which that voter has ((east)) requested an absentee ballot
6 or if the voter is an ongoing absentee voter. A registered voter who
7 has requested an absentee ballot for a primary or special or general
8 election or who is an ongoing absentee voter but chooses to vote at the
9 voter's precinct polling place in that primary or election ~~((shall cast~~
10 ~~a ballot in the manner prescribed by RCW 29.10.127 for challenged~~
11 ~~ballots))~~ must be issued and allowed to cast a special ballot. The
12 canvassing board shall not count the ballot if it finds that the voter
13 has also voted by absentee ballot in that primary or election.

14 **Sec. 26.** RCW 29.54.085 and 1999 c 158 s 15 are each amended to
15 read as follows:

16 (1) The ballots picked up from the precincts during the polling
17 hours may be ~~((counted only))~~ initially and finally processed, but not
18 tabulated, at the counting center before the polls have closed.
19 ~~((Election returns from the count of these ballots))~~ Results of paper
20 ballots that were tabulated at precinct polling sites before the close
21 of polls under RCW 29.54.018 must be held in secrecy until the polls
22 have been closed ~~((as provided by RCW 29.54.018)).~~

23 (2) Upon breaking the seals and opening the ballot containers from
24 the precincts or opening the inner security envelopes for absentee
25 ballots, all voted ballots shall be manually inspected for damage,
26 write-in votes, and incorrect or incomplete marks. If it is found that
27 any ballot is damaged or has incorrect or incomplete marks so that it
28 cannot properly be counted by the vote tallying system, a true
29 duplicate copy shall be made of the ~~((damaged))~~ original ballot in the
30 presence of witnesses and substituted for the ~~((damaged))~~ original
31 ballot. All ~~((damaged))~~ original ballots ~~((shall))~~ for which a true
32 duplicate copy has been made must be kept by the county auditor until
33 sixty days after the primary or election. A ballot may be enhanced
34 before the ballot is placed into the vote tallying machine where the
35 intent of the voter is obvious, but only in the following
36 circumstances: (a) A partially removed, hanging, or dangling chad on
37 a punch card ballot must be removed from the ballot; (b) where a voter
38 makes a write-in vote for an office but fails to otherwise mark the

1 ballot indicating that a write-in vote was made, the ballot must be
2 enhanced by making the mark indicating that a write-in vote has been
3 made; and (c) a ballot may be enhanced if the enhancement may be
4 accomplished without permanently obscuring the original marks on the
5 ballot.

6 Notice of the making of true duplicate copies of original ballots
7 or enhancing ballots, as authorized in this subsection, must be made in
8 the same manner as notice of a special meeting is made under RCW
9 42.30.080 and must also be given to the chair of the county central
10 committee of each major political party in the county.

11 (3) The returns produced by the vote tallying system, to which have
12 been added the counts of questioned ballots, write-in votes, and
13 absentee votes, constitute the official returns of the primary or
14 election in that county.

15 NEW SECTION. Sec. 27. A new section is added to chapter 29.54 RCW
16 to read as follows:

17 The standard to determine if a vote has been validly cast is the
18 obvious intent of the voter. The secretary of state shall adopt rules
19 for each of the various voting systems authorized under chapter 29.33
20 RCW providing further detail for determining the obvious intent of the
21 voter.

22 **Sec. 28.** RCW 29.54.050 and 1999 c 158 s 13 and 1999 c 157 s 4 are
23 each reenacted and amended to read as follows:

24 A ballot is invalid and no votes on that ballot may be counted if
25 it is found folded together with another ballot or it is marked so as
26 to identify the voter.

27 Those parts of a ballot are invalid and no votes may be counted for
28 those issues or offices where more votes are cast for the office or
29 issue than are permitted by law; write-in votes do not contain all of
30 the information required under RCW 29.62.180; or that issue or office
31 is not marked (~~((with sufficient definiteness))~~) to determine the voter's
32 obvious choice or intention. No write-in vote may be rejected due to
33 a variation in the form of the name if the election board or the
34 canvassing board can determine the issue for or against which or the
35 person and the office for which the voter intended to vote.

1 **Sec. 29.** RCW 29.62.180 and 1999 c 157 s 3 are each amended to read
2 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 29.04.180 and such vote shall be counted the same as if the name had
7 been printed on the ballot and marked by the voter. No write-in vote
8 made for any person who has not filed a declaration of candidacy
9 pursuant to RCW 29.04.180 is valid if that person filed for the same
10 office, either as a regular candidate or a write-in candidate, at the
11 preceding primary. Any abbreviation used to designate office,
12 position, or political party shall be accepted if the canvassing board
13 can determine, to their satisfaction, the voter's obvious intent.

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

16 (3) Write-in votes cast for an individual candidate for an office
17 need not be tallied if the total number of write-in votes cast for the
18 office is not greater than the number of votes cast for the candidate
19 apparently nominated or elected, and the write-in votes could not have
20 altered the outcome of the primary or election. In the case of write-
21 in votes for statewide office or for any office whose jurisdiction
22 encompasses more than one county, write-in votes for an individual
23 candidate must be tallied whenever the county auditor is notified by
24 either the office of the secretary of state or another auditor in a
25 multicounty jurisdiction that it appears that the write-in votes could
26 alter the outcome of the primary or election.

27 (4) In the case of statewide offices or jurisdictions that
28 encompass more than one county, if the total number of write-in votes
29 cast for an office within a county is greater than the number of votes
30 cast for a candidate apparently nominated or elected in a primary or
31 election, the auditor shall tally all write-in votes for individual
32 candidates for that office and notify the office of the secretary of
33 state and the auditors of the other counties within the jurisdiction,
34 that the write-in votes for individual candidates should be tallied.

35 **Sec. 30.** RCW 29.04.055 and 1986 c 167 s 3 are each amended to read
36 as follows:

37 COMBINING OR DIVIDING PRECINCTS, ELECTION BOARDS. At any
38 (~~(election, general or)~~) special election(~~(,)~~) or (~~(at any)~~) primary,

1 the county auditor may combine, unite, or divide precincts and may
2 combine or unite election boards for the purpose of holding such
3 election. At any general election, the county auditor may combine or
4 unite election boards for the purpose of holding such election, but
5 shall report all election returns by individual precinct.

6 **Sec. 31.** RCW 29.62.090 and 1999 c 298 s 21 are each amended to
7 read as follows:

8 ABSTRACT BY ELECTION OFFICER--TRANSMITTAL TO SECRETARY OF STATE.

9 (1) Immediately after the official results of a state primary or
10 general election in a county are ascertained, the county auditor or
11 other election officer shall make an abstract of the number of
12 registered voters in each precinct and of all the votes cast in the
13 county at such state primary or general election for and against each
14 state measure((s)) and for each candidate or nominee for federal,
15 state, and legislative office ((or)), and for any other office which
16 the secretary of state is required by law to canvass. The abstract
17 shall be entered on blanks furnished by the secretary of state or on
18 compatible computer printouts approved by the secretary of state, and
19 transmitted to the secretary of state no later than the next business
20 day following the certification by the county canvassing board.

21 ~~((After each general election, the county auditor or other~~
22 ~~election officer shall provide to the secretary of state a report of~~
23 ~~the number of absentee ballots cast in each precinct for and against~~
24 ~~state measures and for each candidate for federal, state, and~~
25 ~~legislative office or for any other office which the secretary of state~~
26 ~~is required by law to canvass. The report may be included in the~~
27 ~~abstract required by this section or may be transmitted to the~~
28 ~~secretary of state separately, but in no event later than March 31 of~~
29 ~~the year following the election.))~~ Absentee ballot results may be
30 incorporated into votes cast at the polls for each precinct or may be
31 reported separately on a precinct-by-precinct basis.

32 ~~((3))~~ If absentee ballot results are not incorporated into votes
33 cast at the polls, the county auditor or other election official may
34 aggregate results from more than one precinct if the auditor, pursuant
35 to rules adopted by the secretary of state, finds that reporting a
36 single precinct's absentee ballot results would jeopardize the secrecy
37 of a person's ballot. To the extent practicable, precincts for which
38 absentee results are aggregated shall be contiguous.

