

ESSB 5499 - H AMD  
By Representative Hunt

ADOPTED AS AMENDED 04/14/2005

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;

1 (5) "Provisional ballot" means a ballot issued (~~to a voter~~) at  
2 the polling place on election day by the precinct election board(~~(, for~~  
3 ~~one of the following reasons))~~ to a voter who would otherwise be denied  
4 an opportunity to vote a regular ballot, for any reason authorized by  
5 the help America vote act, including but not limited to the following:

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

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

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

12 (d) Any other reason allowed by law;

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

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

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

22 The secretary of state shall:

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

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

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

36 (~~(+3)~~) (4) Maintain a record of those individuals who have  
37 received such training and certificates; and

1       (~~(4)~~) (5) Provide the staffing and support services required by  
2 the board created under RCW 29A.04.510.

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

5       All provisional, mail, and absentee ballots must be visually  
6 distinguishable from each other and must be either:

- 7       (1) Printed on colored paper; or
- 8       (2) Imprinted with a bar code for the purpose of identifying the  
9 ballot as a provisional, mail, or absentee ballot. The bar code must  
10 not identify the voter.

11       Provisional, mail, and absentee ballots must be incapable of being  
12 tabulated by poll-site counting devices.

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

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

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

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

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

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

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

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

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

20 Provisional ballots must be issued, along with a provisional ballot  
21 outer envelope and a security envelope, to voters as appropriate under  
22 RCW 29A.04.008. The provisional ballot outer envelope must include a  
23 place for the voter's name; registered address, both present and former  
24 if applicable; date of birth; reason for the provisional ballot; the  
25 precinct number and the precinct polling location at which the voter  
26 has voted; and a space for the county auditor to list the disposition  
27 of the provisional ballot. The provisional ballot outer envelope must  
28 also contain a declaration as required for absentee ballot outer  
29 envelopes under RCW 29A.40.091; a place for the voter to sign the oath;  
30 and a summary of the applicable penalty provisions of this chapter.  
31 The voter shall vote the provisional ballot in secrecy and, when done,  
32 place the provisional ballot in the security envelope, then place the  
33 security envelope into the outer envelope, and return it to the  
34 precinct election official. The election official shall ensure that  
35 the required information is completed on the outer envelope, have the  
36 voter sign it in the appropriate space, and place the envelope in a

1 secure container. The official shall then give the voter written  
2 information advising the voter how to ascertain whether the vote was  
3 counted and, if applicable, the reason why the vote was not counted.

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

6 (1) Any person desiring to vote at the polls at any primary or  
7 election must provide identification to the election officer before  
8 signing the poll book. The identification required in this section may  
9 be satisfied by providing the following forms of identification as  
10 chosen by the voter:

11 (a) A physical form of identification, which may be:

12 (i) An original or copy of a current and valid photo identification  
13 with or without an address. The address is not required to match the  
14 voter's voter identification card; or

15 (ii) An original or copy of a utility bill, bank statement,  
16 government check, paycheck, student identification card, tribal  
17 identification card, or other government document that shows the name  
18 and address of the person. The address is not required to match the  
19 voter's voter identification card; or

20 (b) A verbal or written statement by the voter of the voter's name,  
21 year of birth, and unique identifier as determined by the secretary of  
22 state. The statement of the voter's name does not need to contain the  
23 voter's middle initial or suffix.

24 (2) If the voter does not have identification and does not know his  
25 or her unique identifier, he or she shall vote a provisional ballot.

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

28 (1) If the voter neglects to sign the outside envelope of an  
29 absentee or provisional ballot, the auditor shall notify the voter by  
30 telephone and advise the voter of the correct procedures for completing  
31 the unsigned affidavit. If the auditor is not able to provide the  
32 information personally to the voter by telephone, then the voter must  
33 be contacted by first class mail and advised of the correct procedures  
34 for completing the unsigned affidavit. Leaving a voice mail message  
35 for the voter is not to be considered as personally contacting the  
36 voter. In order for the ballot to be counted, the voter must either:

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

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

6 (2)(a) If the handwriting of the signature on an absentee or  
7 provisional ballot envelope is not the same as the handwriting of the  
8 signature on the registration file, the auditor shall notify the voter  
9 by telephone and advise the voter of the correct procedures for  
10 updating his or her signature on the voter registration file. If the  
11 auditor is not able to provide the information personally to the voter  
12 by telephone, then the voter must be contacted by first class mail and  
13 advised of the correct procedures for completing the unsigned  
14 affidavit. Leaving a voice mail message for the voter is not to be  
15 considered as personally contacting the voter. In order for the ballot  
16 to be counted, the voter must either:

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

19 (ii) Sign a copy of the affidavit provided by the auditor and  
20 return it to the auditor no later than the day before the certification  
21 of the primary or election. If the signature on the copy of the  
22 affidavit does not match the signature on file, the voter must appear  
23 in person and sign a new registration form no later than the day before  
24 the certification of the primary or election in order for the ballot to  
25 be counted.

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

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

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

37 (4) A record must be kept of all ballots with missing and  
38 mismatched signatures. The record must contain the date on which the

1 voter was contacted or the notice was mailed, as well as the date on  
2 which the voter signed the envelope, a copy of the envelope, a new  
3 registration form, or a change-of-name form. That record is a public  
4 record under chapter 42.17 RCW and may be disclosed to interested  
5 parties on written request.

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

8 Before certification of the primary or election, the county auditor  
9 must examine and investigate all received provisional ballots to  
10 determine whether the ballot can be counted. The auditor shall provide  
11 the disposition of the provisional ballot and, if the ballot was not  
12 counted, the reason why it was not counted, on a free access system  
13 such as a toll-free telephone number, web site, mail, or other means.  
14 The auditor must notify the voter in accordance with section 8 of this  
15 act when the envelope is unsigned or when the signatures do not match.

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

18 If inspection of the ballot reveals a physically damaged ballot or  
19 ballot that may be otherwise unreadable or uncountable by the  
20 tabulating system, the county auditor may refer the ballot to the  
21 county canvassing board or duplicate the ballot if so authorized by the  
22 county canvassing board. A ballot may be duplicated only if the intent  
23 of the voter's marks on the ballot is clear and the electronic voting  
24 equipment might not otherwise properly tally the ballot to reflect the  
25 intent of the voter. Ballots must be duplicated by teams of two or  
26 more people working together. When duplicating ballots, the county  
27 auditor shall take the following steps to create and maintain an audit  
28 trail of the action taken:

29 (1) Each original ballot and duplicate ballot must be assigned the  
30 same unique control number, with the number being marked upon the face  
31 of each ballot, to ensure that each duplicate ballot may be tied back  
32 to the original ballot;

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

35 (a) The control number of each original ballot and the  
36 corresponding duplicate ballot;



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

3 (c) The total number of ballots duplicated.

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

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

9 (1) The county auditor shall prepare, make publicly available at  
10 the auditor's office or on the auditor's web site, and submit at the  
11 time of certification an election reconciliation report that discloses  
12 the following information:

- 13 (a) The number of registered voters;
- 14 (b) The number of ballots counted;
- 15 (c) The number of provisional ballots issued;
- 16 (d) The number of provisional ballots counted;
- 17 (e) The number of provisional ballots rejected;
- 18 (f) The number of absentee ballots issued;
- 19 (g) The number of absentee ballots counted;
- 20 (h) The number of absentee ballots rejected;
- 21 (i) The number of federal write-in ballots counted;
- 22 (j) The number of out-of-state, overseas, and service ballots  
23 issued;
- 24 (k) The number of out-of-state, overseas, and service ballots  
25 counted; and
- 26 (l) The number of out-of-state, overseas, and service ballots  
27 rejected.

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

- 32 (a) The number of registered voters;
- 33 (b) The total number of voters credited with voting;
- 34 (c) The number of poll voters credited with voting;
- 35 (d) The number of provisional voters credited with voting;
- 36 (e) The number of absentee voters credited with voting;
- 37 (f) The number of federal write-in voters credited with voting;

1 (g) The number of out-of-state, overseas, and service voters  
2 credited with voting;

3 (h) The total number of voters credited with voting even though  
4 their ballots were postmarked after election day and were not counted;  
5 and

6 (i) Any other information the auditor deems necessary to reconcile  
7 the number of ballots counted with the number of voters credited with  
8 voting.

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

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

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

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

30 (3) A write-in vote for an individual candidate for an office whose  
31 name appears on the ballot for that same office is a valid vote for  
32 that candidate as long as the candidate's name is clearly discernible,  
33 even if other requirements of RCW 29A.24.311 are not satisfied and even  
34 if the voter also marked a vote for that candidate such as to register  
35 an overvote. These votes need not be tabulated unless: (a) The  
36 difference between the number of votes cast for the candidate  
37 apparently qualified to appear on the general election ballot or

1 elected and the candidate receiving the next highest number of votes is  
2 less than the sum of the total number of write-in votes cast for the  
3 office plus the overvotes and undervotes recorded by the vote  
4 tabulating system; or (b) a manual recount is conducted for that  
5 office.

6 (4) Write-in votes cast for an individual candidate for an office  
7 whose name does not appear on the ballot need not be tallied ((if))  
8 unless the total number of write-in votes and undervotes recorded by  
9 the vote tabulation system for the office is ((not)) greater than the  
10 number of votes cast for the candidate apparently ((nominated))  
11 qualified to appear on the general election ballot or elected((, and  
12 the write-in votes could not have altered the outcome of the primary or  
13 election. In the case of write-in votes for statewide office or for  
14 any office whose jurisdiction encompasses more than one county, write-  
15 in votes for an individual candidate must be tallied whenever the  
16 county auditor is notified by either the office of the secretary of  
17 state or another auditor in a multicounty jurisdiction that it appears  
18 that the write-in votes could alter the outcome of the primary or  
19 election)).

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

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

3           Whenever the precinct election officers or the counting center  
4 personnel have a question about the validity of a ballot or the votes  
5 for an office or issue that they are unable to resolve, they shall  
6 prepare and sign a concise record of the facts in question or dispute.  
7 These ballots shall be delivered to the canvassing board for  
8 processing. A ballot is not considered rejected until the canvassing  
9 board has rejected the ballot individually, or the ballot was included  
10 in a batch or on a report of ballots that was rejected in its entirety  
11 by the canvassing board. All ballots shall be preserved in the same  
12 manner as valid ballots for that primary or election.

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

15           The county auditor shall produce cumulative and precinct returns  
16 for each primary and election and deliver them to the canvassing board  
17 for verification and certification. The precinct and cumulative  
18 returns of any primary or election are public records under chapter  
19 42.17 RCW.

20           Cumulative returns for state offices, judicial offices, the United  
21 States senate, and congress must be electronically transmitted to the  
22 secretary of state immediately.

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

25           ~~((At least every third day after a primary or election and before~~  
26 ~~certification of the election results,))~~ Except Sundays and legal  
27 holidays, the county auditor, as delegated by the county canvassing  
28 board, shall process absentee ballots and canvass the votes cast at  
29 that primary or election on a daily basis in counties with a population  
30 of seventy-five thousand or more, or at least every third day for  
31 counties with a population of less than seventy-five thousand, if the  
32 county auditor is in possession of more than twenty-five ballots that  
33 have yet to be canvassed. The county auditor, as delegated by the  
34 county canvassing board, may use his or her discretion in determining  
35 when to process the remaining absentee ballots and canvass the votes  
36 during the final four days before the certification of election results

1 in order to protect the secrecy of any ballot. In counties where this  
2 process has not been delegated to the county auditor, the county  
3 auditor shall convene the county canvassing board to process absentee  
4 ballots and canvass the votes cast at the primary or election as set  
5 forth in this section.

6 Each absentee ballot previously not canvassed that was received by  
7 the county auditor two days or more before processing absentee ballots  
8 and canvassing the votes as delegated by or processed by the county  
9 canvassing board, that either was received by the county auditor before  
10 the closing of the polls on the day of the primary or election for  
11 which it was issued, or that bears a postmark on or before the primary  
12 or election for which it was issued, must be processed at that time.  
13 The tabulation of votes that results from that day's canvass must be  
14 made available to the general public immediately upon completion of the  
15 canvass.

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

18 (1) (~~On the tenth day after a special election or primary and on~~  
19 ~~the fifteenth day~~) Ten days after a primary or special election and  
20 twenty-one days after a general election, the county canvassing board  
21 shall complete the canvass and certify the results. Each absentee  
22 ballot that was returned before the closing of the polls on the date of  
23 the primary or election for which it was issued, and each absentee  
24 ballot with a postmark on or before the date of the primary or election  
25 for which it was issued and received on or before the date on which the  
26 primary or election is certified, must be included in the canvass  
27 report.

28 (2) At the request of a caucus of the state legislature, the county  
29 auditor shall transmit copies of all unofficial returns of state and  
30 legislative primaries or elections prepared by or for the county  
31 canvassing board to either the secretary of the senate or the chief  
32 clerk of the house of representatives.

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

35 Whenever the canvassing board finds during the initial counting  
36 process, or during any subsequent recount thereof, that there is an

1   apparent discrepancy or an inconsistency in the returns of a primary or  
2   election, or that election staff has made an error regarding the  
3   treatment or disposition of a ballot, the board may recanvass the  
4   ballots or voting devices in any precincts of the county. The  
5   canvassing board shall conduct any necessary recanvass activity on or  
6   before the last day to certify or recertify the results of the primary  
7   ~~((or))~~, election, or subsequent recount and correct any error and  
8   document the correction of any error that it finds.

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

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

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

24       (1) If the official canvass of all of the returns for any office at  
25   any primary or election reveals that the difference in the number of  
26   votes cast for a candidate apparently nominated or elected to any  
27   office and the number of votes cast for the closest apparently defeated  
28   opponent is less than two thousand votes and also less than one-half of  
29   one percent of the total number of votes cast for both candidates, the  
30   county canvassing board shall conduct a recount of all votes cast on  
31   that position.

32       (a) Whenever such a difference occurs in the number of votes cast  
33   for candidates for a position the declaration of candidacy for which  
34   was filed with the secretary of state, the secretary of state shall,  
35   within three business days of the day that the returns of the primary

1 or election are first certified by the canvassing boards of those  
2 counties, direct those boards to recount all votes cast on the  
3 position.

4 (b)(i) For statewide elections, if the difference in the number of  
5 votes cast for the apparent winner and the closest apparently defeated  
6 opponent is less than one ((hundred-fifty)) thousand votes and also  
7 less than one-fourth of one percent of the total number of votes cast  
8 for both candidates, the votes shall be recounted manually or as  
9 provided in subsection (3) of this section.

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

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

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

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

34 An application for a recount shall state the office for which a  
35 recount is requested and whether the request is for all or only a  
36 portion of the votes cast in that jurisdiction of that office. The  
37 person filing an application for a manual recount shall, at the same

1 time, deposit with the county canvassing board or secretary of state,  
2 in cash or by certified check, a sum equal to twenty-five cents for  
3 each ballot cast in the jurisdiction or portion of the jurisdiction for  
4 which the recount is requested as security for the payment of any costs  
5 of conducting the recount. If the application is for a machine  
6 recount, the deposit must be equal to fifteen cents for each ballot.  
7 These charges shall be determined by the county canvassing board or  
8 boards under RCW (~~29A.64.080~~) 29A.64.081.

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

28 Proceedings of the canvassing board are public under chapter 42.30  
29 RCW. Subject to reasonable and equitable guidelines adopted by the  
30 canvassing board, all interested persons may attend and witness a  
31 recount.

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

34 Upon completion of the canvass of a recount, the canvassing board  
35 shall prepare and certify an amended abstract showing the votes cast in  
36 each precinct for which the recount was conducted. Copies of the



1 amended abstracts must be transmitted to the same officers who received  
2 the abstract on which the recount was based.

3 If the nomination, election, or issue for which the recount was  
4 conducted was submitted only to the voters of a county, the canvassing  
5 board shall file the amended abstract with the original results of that  
6 election or primary.

7 If the nomination, election, or issue for which a recount was  
8 conducted was submitted to the voters of more than one county, the  
9 secretary of state shall canvass the amended abstracts and shall file  
10 an amended abstract with the original results of that election. The  
11 secretary of state may require that the amended abstracts be certified  
12 by each canvassing board on a uniform date. An amended abstract  
13 certified under this section supersedes any prior abstract of the  
14 results for the same offices or issues at the same primary or election.

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

17 Any justice of the supreme court, judge of the court of appeals, or  
18 judge of the superior court in the proper county shall, by order,  
19 require any person charged with error, wrongful act, or neglect to  
20 forthwith correct the error, desist from the wrongful act, or perform  
21 the duty and to do as the court orders or to show cause forthwith why  
22 the error should not be corrected, the wrongful act desisted from, or  
23 the duty or order not performed, whenever it is made to appear to such  
24 justice or judge by affidavit of an elector that:

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

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

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

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

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

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

3 An affidavit of an elector under subsections (1) and (3) (~~above~~)  
4 of this section when relating to a primary election must be filed with  
5 the appropriate court no later than the second Friday following the  
6 closing of the filing period for nominations for such office and shall  
7 be heard and finally disposed of by the court not later than five days  
8 after the filing thereof. An affidavit of an elector under subsections  
9 (1) and (3) of this section when relating to a general election must be  
10 filed with the appropriate court no later than three days following the  
11 official certification of the primary election returns and shall be  
12 heard and finally disposed of by the court not later than five days  
13 after the filing thereof. An affidavit of an elector under subsection  
14 (6) of this section shall be filed with the appropriate court no later  
15 than ten days following the (~~issuance of a certificate of election~~)  
16 official certification of the election as provided in RCW 29A.60.190,  
17 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after  
18 the official certification of the amended abstract as provided in RCW  
19 29A.64.061.

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

22 A person who knowingly destroys, alters, defaces, conceals, or  
23 discards a completed voter registration form or signed absentee or  
24 provisional ballot signature affidavit is guilty of a gross  
25 misdemeanor. This section does not apply to (1) the voter who  
26 completed the voter registration form, or (2) a county auditor or  
27 registration assistant who acts as authorized by voter registration  
28 law.

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

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

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

3       NEW SECTION.   **Sec. 25.** The secretary of state shall study the  
4 feasibility of requiring that the names of the top two vote-getters in  
5 primary elections of justices of the state supreme court, judges of the  
6 courts of appeals, superior courts, and district courts, and the  
7 superintendent of public instruction shall appear on the general  
8 election ballot. The study shall include a survey of how many times a  
9 judicial candidate and a candidate for superintendent of public  
10 instruction have appeared without opposition on the general election  
11 ballot from 1985 to present; the number of voters voting for these  
12 races in the primary election as opposed to voting for the same races  
13 in the general election; and if the differences in the numbers of  
14 voters voting at the primary and voting at the general election may  
15 have resulted in a different election result. The study shall also  
16 include a financial analysis of the proposed changes. The secretary of  
17 state shall report the results of the study to the appropriate  
18 committees of the legislature no later than January 31, 2006.

19       NEW SECTION.   **Sec. 26.** This act takes effect January 1, 2006."

20       Correct the title.

--- END ---