

CERTIFICATION OF ENROLLMENT

SENATE BILL 5275

Chapter 241, Laws of 2001

(partial veto)

57th Legislature
2001 Regular Session

ELECTIONS--BALLOTS CAST BY MAIL

EFFECTIVE DATE: 7/22/01

Passed by the Senate April 20, 2001
YEAS 35 NAYS 6

BRAD OWEN

President of the Senate

Passed by the House April 19, 2001
YEAS 94 NAYS 2

FRANK CHOPP

**Speaker of the
House of Representatives**

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 11, 2001, with the
exception of section 23, which is
vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SENATE BILL 5275 as passed by the
Senate and the House of
Representatives on the dates hereon
set forth.

TONY M. COOK

Secretary

FILED

May 11, 2001 - 9:11 a.m.

**Secretary of State
State of Washington**

SENATE BILL 5275

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senators Gardner, McCaslin, Haugen, Costa and Kohl-Welles

Read first time 01/17/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to ballots cast by mail; amending RCW 29.36.010,
2 29.36.013, 29.36.170, 29.36.030, 29.36.035, 29.36.045, 29.36.060,
3 29.36.070, 29.36.075, 29.36.100, 29.36.160, 29.36.121, 29.36.124,
4 29.36.126, 29.36.130, 29.04.055, and 29.62.090; reenacting and amending
5 RCW 29.36.120; adding new sections to chapter 29.36 RCW; adding a new
6 section to chapter 29.51 RCW; adding a new chapter to Title 29 RCW;
7 creating a new section; recodifying RCW 29.36.010, 29.36.013,
8 29.36.170, 29.36.030, 29.30.075, 29.36.035, 29.36.045, 29.36.060,
9 29.36.070, 29.36.075, 29.36.097, 29.36.100, 29.36.150, 29.36.160,
10 29.36.120, 29.36.121, 29.36.124, 29.36.126, 29.36.130, and 29.36.050;
11 repealing RCW 29.36.122 and 29.36.139; and prescribing penalties.

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

13 **PART I**

14 **ABSENTEE VOTING**

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

17 ABSENTEE BALLOT VOTING. Any registered voter of the state or any
18 out-of-state voter, overseas voter, or service voter may vote by

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

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

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

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

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

1 ~~vote in the state of Washington or the county auditor shall verify such~~
2 ~~information from the voter registration records of the county.~~

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

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

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

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

37 (2) A voter requesting an absentee ballot for a primary may also
38 request an absentee ballot for the following general election. A

1 request by an out-of-state voter, overseas voter, or service voter for
2 an absentee ballot for a primary election will be considered as a
3 request for an absentee ballot for the following general election.

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

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

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

27 **REQUESTING ABSENTEE BALLOT FOR FAMILY MEMBER.** A member of a
28 registered voter's family may request an absentee ballot on behalf of
29 and for use by the voter. As a means of ensuring that a person who
30 requests an absentee ballot is requesting the ballot for only that
31 person or a member of the person's immediate family, an auditor may
32 require a person who requests an absentee ballot to identify the date
33 of birth of the voter for whom the ballot is requested and deny a
34 request that is not accompanied by this information.

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

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

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

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

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

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

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

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

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

35 (2) With any special absentee ballot issued under this section, the
36 county auditor shall include a listing of any candidates who have filed
37 before the time of the application for offices that will appear on the

1 ballot at that primary or election and a list of any issues that have
2 been referred to the ballot before the time of the application.

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

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

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

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

33 (~~At each general election in an even-numbered year, each absentee~~
34 ~~voter shall also be given a separate ballot containing the names of the~~
35 ~~candidates that have filed for the office of precinct committee officer~~
36 ~~unless fewer than two candidates have filed for the same political~~
37 ~~party in the absentee voter's precinct. The ballot shall provide space~~
38 ~~for writing in the name of additional candidates.~~

1 ~~When mailing an absentee ballot to a registered voter temporarily~~
2 ~~outside the state or to an out-of-state voter, overseas voter, or~~
3 ~~service voter, the county auditor shall send a)) (2) A registered voter~~
4 may obtain a replacement ballot if the ballot is destroyed, spoiled,
5 lost, or not received by the voter. The voter may obtain the ballot by
6 telephone request, by mail, electronically, or in person. The county
7 auditor shall keep a record of each replacement ballot provided under
8 this subsection.

9 (3) A copy of the state voters' and candidates' pamphlet must be
10 sent to registered voters temporarily outside the state, out-of-state
11 voters, overseas voters, and service voters along with the absentee
12 ballot if such a pamphlet has been prepared for the primary or election
13 and is available to the county auditor at the time of mailing. The
14 county auditor shall mail all absentee ballots and related material to
15 voters outside the territorial limits of the United States and the
16 District of Columbia under 39 U.S.C. 3406.

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

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

22 (1) Only the registered voter~~((, himself))~~ personally, or a member
23 of ~~((his))~~ the registered voter's immediate family may pick up an
24 absentee ballot for the voter at the office of the issuing officer
25 unless the voter is ~~((hospitalized))~~ a resident of a health care
26 facility, as defined by RCW 70.37.020(3), on election day and applies
27 by messenger ~~((in accordance with RCW 29.36.010))~~ for an absentee
28 ballot ~~((on the day of the primary or election))~~. In this latter case,
29 the messenger may pick up the ~~((hospitalized))~~ voter's absentee ballot.

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

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

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

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

25 If the county auditor chooses to forward absentee ballots, he or
26 she must include with the ballot a clear explanation of the
27 qualifications necessary to vote in that election and must also advise
28 a voter with questions about his or her eligibility to contact the
29 county auditor. This explanation may be provided on the ballot
30 envelope, on an enclosed insert, or printed directly on the ballot
31 itself. If the information is not included, the envelope must clearly
32 indicate that the ballot is not to be forwarded and that return postage
33 is guaranteed.

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

36 OBSERVERS. County auditors must request that observers be
37 appointed by the major political parties to be present during the
38 processing of absentee ballots. The absence of the observers will not

1 prevent the processing of absentee ballots if the county auditor has
2 requested their presence.

3 **Sec. 10.** RCW 29.36.060 and 1991 c 81 s 32 are each amended to read
4 as follows:

5 PROCESSING ABSENTEE BALLOTS. (1) 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)~~) before the primary or
8 election. The (~~(opening of the security envelopes and)~~) tabulation of
9 absentee ballots (~~(shall)~~) must not commence until after 8:00
10 (~~(o'clock)~~) p.m. on the day of the primary or election.

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

19 (3) Before opening a returned absentee ballot, the canvassing
20 board, or its designated representatives, shall examine the postmark,
21 statement, and signature on ((each)) the return envelope ((containing))
22 that contains the security envelope and absentee ballot. They shall
23 verify that the voter's signature on the return envelope is the same as
24 the signature of that voter in the registration files ((for that
25 voter)) of the county. For ((absentee)) registered voters ((other than
26 out-of-state voters, overseas voters, and service voters, if the
27 postmark is illegible)) casting absentee ballots, the date on the
28 return envelope to which the voter ((attests shall)) has attested
29 determines the validity, as to the time of voting((, of)) for that
30 absentee ballot ((under this chapter)) if the postmark is missing or is
31 illegible. For out-of-state voters, 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 **Sec. 11.** RCW 29.36.070 and 1990 c 262 s 2 are each amended to read
2 as follows:

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

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

10 **Sec. 12.** RCW 29.36.075 and 1988 c 181 s 3 are each amended to read
11 as follows:

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

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

24 **Sec. 13.** RCW 29.36.100 and 1987 c 346 s 18 are each amended to
25 read as follows:

26 CHALLENGED ABSENTEE BALLOTS. The qualifications of any absentee
27 voter may be challenged at the time the signature on the return
28 envelope is verified and the ballot is processed by the canvassing
29 board. The board has the authority to determine the legality of any
30 absentee ballot challenged under this section. Challenged ballots must
31 be handled in accordance with chapter 29.10 RCW.

32 **Sec. 14.** RCW 29.36.160 and 1994 c 269 s 2 are each amended to read
33 as follows:

34 PENALTY. A person who willfully violates any provision of this
35 chapter regarding the assertion or declaration of qualifications to
36 receive or cast an absentee ballot(~~((7))~~) or unlawfully casts a vote by

1 absentee ballot(~~(, or willfully violates any provision regarding the~~
2 ~~conduct of mail ballot primaries or elections under RCW 29.36.120~~
3 ~~through 29.36.139))~~ is guilty of a class C felony punishable under RCW
4 9A.20.021. Except as provided in chapter 29.85 RCW a person who
5 willfully violates any other provision of this chapter is guilty of a
6 misdemeanor.

7 **PART II**
8 **MAIL BALLOTS**

9 **Sec. 15.** RCW 29.36.120 and 1994 c 269 s 1 and 1994 c 57 s 48 are
10 each reenacted and amended to read as follows:

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

35 (~~(At any nonpartisan special election not being held in conjunction~~
36 ~~with a state primary or general election, the county, city, town, or~~
37 ~~district requesting the election pursuant to RCW 29.13.010 or 29.13.020~~

1 may also request that the election be conducted by mail ballot. The
2 county auditor may honor the request or may determine that the election
3 is not to be conducted by mail ballot. The decision of the county
4 auditor in this regard is final.

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

8 For all special elections not being held in conjunction with a
9 state primary or state general election where voting is conducted by
10 mail ballot, the county auditor shall, not less than fifteen days prior
11 to the date of such election, mail or deliver to each active registered
12 voter a mail ballot and an envelope, preaddressed to the issuing
13 officer.)) As soon as ballots are available, the county auditor shall
14 mail or deliver a ballot and an envelope, preaddressed to the issuing
15 officer, to each active registered voter. The auditor shall send each
16 inactive voter either a ballot or an application to receive a ballot.
17 The auditor shall determine which of the two is to be sent. If the
18 inactive voter returns a voted ballot, the ballot shall be counted and
19 the voter's status restored to active. If the inactive voter completes
20 and returns an application, a ballot shall be sent and the voter's
21 status restored to active.

22 ((2) For a two year period beginning on June 9, 1994, and ending
23 two years after June 9, 1994, the county auditor may conduct the voting
24 in any precinct by mail for any primary or election, partisan or
25 nonpartisan, using the procedures set forth in RCW 29.36.120 through
26 29.36.139.))

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

31 **Sec. 16.** RCW 29.36.121 and 1994 c 57 s 49 are each amended to read
32 as follows:

33 MAIL BALLOT SPECIAL ELECTIONS. ((1)) At any nonpartisan special
34 election not being held in conjunction with a state primary or general
35 election, the county, city, town, or district requesting the election
36 pursuant to RCW 29.13.010 or 29.13.020 may also request that the
37 special election be conducted by mail ballot. The county auditor may
38 honor the request or may determine that the election is not to be

1 conducted by mail ballot. The decision of the county auditor in this
2 regard is final.

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

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

8 ~~(b) For any office or ballot measure of a special purpose district
9 which lies in the county and one or more other counties if the auditor
10 first secures the concurrence of the county auditors of those other
11 counties to conduct the primary in this manner district wide; and~~

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

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

19 ~~(3)) For all special elections not being held in conjunction with
20 a state primary or state general election where voting is conducted by
21 mail ballot, the county auditor shall, not less than ((fifteen)) twenty
22 days before the date of such election, ((mail or deliver)) make
23 available to each registered voter a mail ballot ((and an envelope,
24 preaddressed to the issuing officer. The county auditor shall notify
25 an election jurisdiction for which a primary is to be held that the
26 primary will be conducted by mail ballot)). The auditor shall handle
27 inactive voters in the same manner as inactive voters in mail ballot
28 precincts.~~

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

33 NEW SECTION. Sec. 17. ODD-YEAR PRIMARIES BY MAIL. In an odd-
34 numbered year, the county auditor may conduct a primary or a special
35 election by mail ballot concurrently with the primary:

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

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

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

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

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

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

18 **Sec. 18.** RCW 29.36.124 and 1983 1st ex.s. c 71 s 3 are each
19 amended to read as follows:

20 DEPOSITING BALLOTS FOR MAIL BALLOT ELECTIONS. (1) If a county
21 auditor conducts an election by mail, the county auditor shall
22 designate (~~the county auditor's office or a central location in the~~
23 ~~district in which the election is conducted as the single place to~~
24 ~~obtain a replacement ballot. The county auditor also shall designate~~)
25 one or more places for the deposit of ballots not returned by mail.
26 The places designated under this section shall be open on the date of
27 the election for a period of thirteen hours, beginning at 7:00 a.m. and
28 ending at 8:00 p.m.

29 (2) A registered voter may obtain a replacement ballot as provided
30 in this subsection if the ballot is destroyed, (~~spoiled~~) damaged,
31 lost, or not received by the voter. (~~A registered voter seeking a~~
32 ~~replacement ballot shall sign a sworn statement that the ballot was~~
33 ~~destroyed, spoiled, lost, or not received and shall present the~~
34 ~~statement to the county auditor no later than the day of the election.~~
35 ~~Each spoiled ballot must be returned to the county auditor before a new~~
36 ~~one is issued.)) A voter may request a replacement mail ballot in
37 person, by mail, by telephone, or by other electronic transmission for
38 himself or herself and for any member of his or her immediate family.~~

1 The request must be received by the auditor before 8:00 p.m. on
2 election day. The county auditor shall keep a record of each
3 replacement ballot (~~((provided under this subsection))~~) issued, including
4 the date of the request. Replacement mail ballots may be counted in
5 the final tabulation of ballots only if the original ballot is not
6 received by the county auditor and the replacement ballot meets all
7 requirements for tabulation necessary for the tabulation of regular
8 mail ballots.

9 **Sec. 19.** RCW 29.36.126 and 1993 c 417 s 4 are each amended to read
10 as follows:

11 RETURN OF VOTED BALLOT BY VOTER. (~~((Upon receipt of the mail~~
12 ballot, the voter shall mark it, sign the return identification
13 envelope supplied with the ballot, and comply with the instructions
14 provided with the ballot. The voter may return the marked ballot to
15 the county auditor. The ballot must be returned)) The voter shall
16 return the ballot to the county auditor in the return identification
17 envelope. If mailed, a ballot must be postmarked not later than the
18 date of the primary or election. Otherwise, the ballot must be
19 deposited at the office of the county auditor or the designated place
20 of deposit not later than 8:00 p.m. on the date of the primary or
21 election.

22 **Sec. 20.** RCW 29.36.130 and 1993 c 417 s 5 are each amended to read
23 as follows:

24 BALLOT CONTENTS--COUNTING. All mail ballots authorized by RCW
25 29.36.120 or 29.36.121 (~~((shall))~~) (as recodified by this act) or section
26 17 of this act must contain the same offices, names of nominees or
27 candidates, and propositions to be voted upon, including precinct
28 offices, as if the ballot had been voted in person at the polling
29 place. Except as otherwise provided (~~((in this chapter))~~) by law, mail
30 ballots (~~((shall))~~) must be (~~((issued and canvassed))~~) treated in the same
31 manner as absentee ballots issued (~~((pursuant to))~~) at the request of the
32 voter. (~~((The county canvassing board, at the request of the county~~
33 auditor, may direct that mail ballots be counted on the day of the
34 election. If such count is made, it must be done in secrecy in the
35 presence of the canvassing board or their authorized representatives
36 and the results not revealed to any unauthorized person until 8:00 p.m.
37 or later if the auditor so directs.)) If electronic vote tallying

1 devices are used, political party observers (~~((shall be afforded))~~) must
2 be given the opportunity to be present, and a test of the equipment
3 must be performed as required by RCW 29.33.350 (~~((prior to the count~~
4 ~~of))~~) before tabulating ballots. Political party observers may select
5 at random ballots to be counted manually as provided by RCW 29.54.025.
6 Any violation of the secrecy of (~~((such))~~) the count (~~((shall be))~~) is
7 subject to the same penalties as provided for in RCW 29.85.225.

8 NEW SECTION. **Sec. 21.** PENALTY. A person who willfully violates
9 any provision of this chapter regarding the conduct of mail ballot
10 primaries or elections is guilty of a class C felony punishable under
11 RCW 9A.20.021.

12 **PART III**
13 **REPORTING**

14 **Sec. 22.** RCW 29.04.055 and 1986 c 167 s 3 are each amended to read
15 as follows:

16 COMBINING OR DIVIDING PRECINCTS, ELECTION BOARDS. At any
17 (~~((election, general or))~~) special election(~~((,))~~) or (~~((at any))~~) primary,
18 the county auditor may combine, unite, or divide precincts and may
19 combine or unite election boards for the purpose of holding such
20 election. At any general election, the county auditor may combine or
21 unite election boards for the purpose of holding such election, but
22 shall report all election returns by individual precinct.

23 **Sec. 23. RCW 29.62.090 and 1999 c 298 s 21 are each amended to*
24 *read as follows:*

25 *ABSTRACT BY ELECTION OFFICER--TRANSMITTAL TO SECRETARY OF STATE.*
26 *(1) Immediately after the official results of a state primary (~~((or~~*
27 *general election)) in a county are ascertained, the county auditor or*
28 *other election officer shall make an abstract of the number of*
29 *registered voters in each precinct and of all the votes cast in the*
30 *county at such state primary (~~((or general election))~~) for and against*
31 *state measures and for each candidate for federal, state, and*
32 *legislative office or for any other office which the secretary of state*
33 *is required by law to canvass. The abstract shall be entered on blanks*
34 *furnished by the secretary of state or on compatible computer printouts*
35 *approved by the secretary of state, and transmitted to the secretary of*

1 state no later than the next business day following the certification
2 by the county canvassing board.

3 (2) After each general election, the county auditor or other
4 election officer shall ~~((provide to the secretary of state a report))~~
5 make an abstract of the number of ((absentee)) registered voters and
6 all ballots cast in each precinct at such general election for and
7 against state measures and for each candidate for federal, state, and
8 legislative office or for any other office which the secretary of state
9 is required by law to canvass. ((The report may be included in the
10 abstract required by this section or may be transmitted to the
11 secretary of state separately, but in no event later than March 31 of
12 the year following the election.)) Absentee ballot results may be
13 incorporated into votes cast at the polls for each precinct or may be
14 reported separately on a precinct-by-precinct basis. The abstract
15 shall be entered on blanks furnished by the secretary of state or on
16 compatible computer printouts approved by the secretary of state, and
17 transmitted to the secretary of state no later than the next business
18 day following the certification by the county canvassing board.

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

26 *Sec. 23 was vetoed. See message at end of chapter.

27 PART IV
28 TECHNICAL

29 NEW SECTION. Sec. 24. The following acts or parts of acts are
30 each repealed:

31 (1) RCW 29.36.122 (Special election by mail--Sending ballots to
32 voters) and 1994 c 57 s 50, 1993 c 417 s 3, & 1983 1st ex.s. c 71 s 2;
33 and

34 (2) RCW 29.36.139 (Mail ballots--Counting requirements--Challenge)
35 and 1993 c 417 s 6 & 1983 1st ex.s. c 71 s 6.

1 NEW SECTION. **Sec. 25.** (1) RCW 29.36.010, 29.36.013, 29.36.170,
2 29.36.030, 29.30.075, 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, and 29.36.160 are each
4 recodified within chapter 29.36 RCW, in the order listed, along with
5 sections 2, 3, and 9 of this act.

6 (2) RCW 29.36.120, 29.36.121, 29.36.124, 29.36.126, and 29.36.130
7 are each recodified, and, along with sections 17 and 21 of this act,
8 constitute a new chapter in Title 29 RCW.

9 (3) RCW 29.36.050 is recodified as a new section in chapter 29.51
10 RCW.

11 NEW SECTION. **Sec. 26.** Section captions and part headings used in
12 this act are not part of the law.

 Passed the Senate April 20, 2001.

 Passed the House April 19, 2001.

 Approved by the Governor May 11, 2001, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State May 11, 2001.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 23,
3 Senate Bill No. 5275 entitled:

4 "AN ACT Relating to ballots cast by mail;"

5 Senate Bill No. 5275 reorganizes and clarifies the laws governing
6 absentee and mail balloting. Section 23 of the bill would have amended
7 RCW 29.62.090, and clarified reporting requirements and submittal
8 deadlines for official election results. However, the legislature also
9 sent to me Substitute House Bill No. 1644, which amends the same
10 statute section in a slightly different way - most notably by providing
11 for electronic transmission of election results.

12 Because I signed Substitute House Bill No. 1644 in its entirety on
13 May 9, 2001, I have vetoed section 23 of Senate Bill No. 5275 in order
14 to avoid a conflicting double amendment.

15 For these reasons, I have vetoed section 23 of Senate Bill No.
16 5275.

17 With the exception of section 23, Senate Bill No. 5275 is
18 approved."