1   H.298

2   Introduced by Representatives Hubert of Milton, Mook of Bennington, Atkins

3   of Winooski, Bissonnette of Winooski, Buxton of Royalton,

4   Christie of Hartford, Condon of Colchester, Consejo of

5   Sheldon, Devereux of Mount Holly, Dickinson of St. Albans

6   Town, Donaghy of Poultney, Higley of Lowell, Jerman of

7   Essex, Keenan of St. Albans City, Lewis of Derby, McAllister

8   of Highgate, McNeil of Rutland Town, Myers of Essex, Savage

9   of Swanton, Shaw of Pittsford, Stevens of Shoreham, Sweaney

10   of Windsor and Townsend of Randolph

11   Referred to Committee on

12   Date:

13   Subject: Elections; conduct of elections; ballots; recounts

14   Statement of purpose: This bill proposes to require the secretary of state to

15   supply towns with standardized ballots that can be used in vote tabulators, and

16   to require that recounts be performed using vote tabulators.

17   An act relating to standardized ballots and vote tabulators

18   It is hereby enacted by the General Assembly of the State of Vermont:

1   Sec. 1. 17 V.S.A. § 2471 is amended to read:

2   § 2471. GENERAL ELECTION BALLOT

3   (a) A consolidated ballot shall be used at a general election, which shall list

4   the several candidates for the offices to be voted upon. The offices of

5   president and vice-president of the United States, United States senator, United

6   States representative, governor, lieutenant governor, state treasurer, secretary

7   of state, auditor of accounts, attorney general, state senator, representative to

8   the general assembly, judge of probate, assistant judge, state's attorney, sheriff,

9   and high bailiff shall be listed in that order. Any statewide public question

10   shall also be listed on the ballot, before the listing of all offices to be filled.

11   The ballot shall be prepared at state expense under the direction of the

12   secretary of state. The color of the ballot shall be determined by the secretary

13   of state. The printing shall be black. Ballots shall be printed on index stock

14   and configured to be readable by vote tabulators.

15   * * *

16   Sec. 2. 17 V.S.A. § 2493 is amended to read:

17   § 2493. RULES FOR USE OF VOTING MACHINES

18   (a) The secretary of state shall adopt rules governing the use and the

19   selection of any voting machine in the state. These rules shall include

20   requirements that:

21   * * *

1   ~~(6) Establish a process for using voting machines in recounts.~~

2   Sec. 3. 17 V.S.A. § 2535(b) is amended to read:

3   (b) If necessary, special ballots may be prepared ~~of such different weight of~~

4   ~~paper, or overall size and shape as shall be prescribed by the secretary of state,~~

5   to conform with minimum ~~postal, military, naval, air force or other~~ federal or

6   military regulations and orders covering the transportation of such ballots,

7   provided that the text is identical in substance, except as to type size, with that

8   appearing on the official ballots.

9   Sec. 4. 17 V.S.A. chapter 51, subchapter 9 is amended to read:

10   Subchapter 9. Recounts and Contest of Elections

11   * * *

12   § 2602b. ASSIGNMENT OF DUTIES

13   (a) The county clerk shall supervise the recount and may appoint a

14   sufficient number of impartial assistants to perform appropriate tasks which

15   have not been assigned to recount committee members. <u>The secretary of state</u>

16   <u>shall recruit town clerks to serve as impartial assistants to the county clerk for</u>

17   <u>operating the vote tabulators.</u> The county clerk shall store all ballots, still in

18   their sealed containers, in his or her vault until the day of the recount.

19   * * *

1   § 2602e. PREPARATION FOR RECOUNT

2   (a) Before the recount begins, the county clerk shall explain the recount

3   procedures which are to be followed and shall answer questions relating to

4   such procedures. The county clerk shall use volunteer town clerks to operate

5   and instruct on the use of vote tabulators.

6   (b) The Each recount teams established team shall recount the contents of

7   one container before another container is opened opening another container at

8   its table, shall recount the contents of all the containers relating to one polling

9   place before moving to those of another polling place, and shall complete the

10   recount for one town before moving to material relating to another town.

11   * * *

12   § 2602f. FIRST TALLY RECOUNT BY VOTE TABULATOR

13   (a) The caller shall call the name of the person voted for and/or blank

14   ballots, and/or spoiled ballots. The tally person and the double-check person

15   or persons each shall make a suitable mark for that candidate and/or blank

16   ballots, and/or spoiled ballots Machine-readable ballots from each pile shall be

17   fed through a vote tabulator by one team until all machine-readable ballots

18   from the container have been entered. For ballots unable to be read by a vote

19   tabulator, such as damaged or plain paper ballots, a second team shall collect

20   these ballots from the pile and transfer the voter's choices on those ballots to

21   blank ballots provided by the secretary of state. After all of the

1   ~~machine-readable ballots have been fed through the machine, the first team~~

2   shall feed through the machine any transfer ballots created by the second team.

3   The recount teams shall switch roles for each subsequent container of ballots

4   of a polling place that are to be fed through the vote tabulator, if there is more

5   than one container per polling place. This process shall be used until all ballots

6   from a polling place have been tabulated by a vote tabulator.

7   (b) After all ballots from a polling place have been tabulated by a vote

8   tabulator, a recount team shall print the tabulator tape containing the unofficial

9   results and document those results on a tally sheet. Another recount team shall

10   then open the tabulator's ballot box and remove all ballots. The ballots shall

11   then be divided among the recount teams to be examined to find write-in

12   names and markings of voter intent that were not machine readable as outlined

13   in the secretary of state's vote tabulator guide and most recent elections

14   procedures manual. A caller, tally person, and double-check person shall be

15   used to examine the ballots removed from the ballot box. If the caller and the

16   observer or observers do not agree on how a ballot should be counted, the

17   entire team shall review the ballot and if all members agree, it shall be counted

18   that way.

19   (c) If one person does not agree, that ballot shall be set aside as a

20   questioned ballot and a copy shall be made, which copy shall be clearly

21   marked on its face identifying it as a copy. Such copies shall be placed on the

1   top of the other ballots and shall remain together with the other ballots. Each

2   original ballot deemed questionable shall be attached to a note which identifies

3   it by town, county, polling place and bag seal number. The originals of these

4   questionable ballots shall be clipped to the summary sheet for that polling

5   place and returned to the court for a final decision.

6   (d) After the court has rendered a final decision on a given questionable

7   ballot it shall be returned to the county clerk who shall keep it in a sealed

8   container for a period of two years.

9   (e) Write-in votes for preprinted candidates shall be counted as votes for

10   that candidate.

11   (f) If the tally persons do not agree on the number of votes for a candidate

12   on ballots not able to be read by the vote tabulator, the ballots shall be retallied

13   until they do agree. Then the team shall notify the clerk that it has completed

14   the first its recount.

15   * * *

16   Sec. 5. REPEAL

17   17 V.S.A. §§ 2602g (second tally) and 2602l (recounts using voting

18   machines) are repealed.

19   Sec. 6. EFFECTIVE DATE

20   This act shall take effect on passage

Sec. 1. 17 V.S.A. § 2362 is amended to read:

§ 2362. PRIMARY BALLOTS

(a) The ballots shall be prepared and furnished to the towns by the secretary of state and shall contain the names of all candidates for nomination at the primary. Ballots shall be printed on index stock and configured to be readable by vote tabulators. A separate ballot for each major political party in the same format as is used for optical scan tabulator ballots shall be printed in substantially the following form:

* * *

Sec. 2. 17 V.S.A. § 2451 is amended to read:

§ 2451. BOARD OF CIVIL AUTHORITY

(a) The board of civil authority shall have charge of the conduct of elections within the political subdivision for which it is elected. At any time before an election, the board of civil authority may issue guidance for elections officials that assists officials in conducting elections within the political subdivision. Guidance issued by the board shall not conflict with federal or state elections laws. A quorum of the board of civil authority shall be available at all times when the polls are open, and those members of the board of civil authority present at a polling place shall constitute a quorum for the transaction of business relating to the conduct of the election and the qualification and registration of voters at this polling place.

(b) The board may require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes as provided in section 2491 of this chapter.

Sec. 3. 17 V.S.A. § 2471 is amended to read:

§ 2471. GENERAL ELECTION BALLOT

(a) A consolidated ballot shall be used at a general election, which shall list the several candidates for the offices to be voted upon. The offices of president and vice-president of the United States, United States senator, United States representative, governor, lieutenant governor, state treasurer, secretary of state, auditor of accounts, attorney general, state senator, representative to the general assembly, judge of probate, assistant judge, state's attorney, sheriff, and high bailiff shall be listed in that order. Any statewide public question shall also be listed on the ballot, before the listing of all offices to be filled. The ballot shall be prepared at state expense under the direction of the secretary of state. The color of the ballot shall be determined by the secretary of state. The printing shall be black. Ballots shall be printed on index stock and configured to be readable by vote tabulators.

* * *

Sec. 4. 17 V.S.A. § 2491 is amended to read:

§ 2491. POLITICAL ~~SUBDIVISION MAY USE VOTING MACHINES;~~
    SUBDIVISIONS; VOTE TABULATORS

(a) ~~A town~~ *Except as provided in subsection (b) of this section, a board of civil authority may* ~~vote at any annual or special meeting to employ electronic devices ("voting machines"),~~ *at a meeting held not less than 60 days prior to an election and warned pursuant to 24 V.S.A. § 801, vote to require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes in subsequent elections.* ~~Voting machines may be used in combination with the paper ballots described in the preceding subchapter, so that each voter may choose whether to use a paper ballot or a voting machine to cast his or her vote, if the town so votes.~~

(b) A town with 1,000 or more registered voters as of December 31 in even-numbered years beginning in the year 2012 shall use vote tabulators for the registering and counting of votes in subsequent general elections.

Sec. 5. 17 V.S.A. § 2493 is amended to read:

§ 2493. RULES FOR USE OF VOTING MACHINES

(a) The secretary of state shall adopt rules governing the use and the selection of any voting machine in the state. These rules shall include requirements that:

* * *

(6) Establish a process for using voting machines in recounts.

Sec. 6. 17 V.S.A. § 2535(b) is amended to read:

(b) If necessary, special ballots may be prepared ~~of such different weight of paper, or overall size and shape as shall be prescribed by the secretary of state,~~ *to conform with minimum* ~~postal, military, naval, air force or other~~ *federal or military regulations and orders covering the transportation of such ballots, provided that the text is identical in substance, except as to type size, with that appearing on the official ballots.*

Sec. 7. 17 V.S.A. chapter 51, subchapter 9 is amended to read:

        Subchapter 9. Recounts and Contest of Elections

* * *

§ 2602b. ASSIGNMENT OF DUTIES

(a) The county clerk shall supervise the recount and may appoint a sufficient number of impartial assistants to perform appropriate tasks which

have not been assigned to recount committee members. The secretary of state shall recruit town clerks to serve as impartial assistants to the county clerk for operating the vote tabulators. The county clerk shall store all ballots, still in their sealed containers, in his or her vault until the day of the recount.

* * *

§ 2602c. PREPARATION FOR RECOUNT

(a) Before the recount begins, the county clerk shall explain the recount procedures which are to be followed and shall answer questions relating to such procedures. The county clerk shall use volunteer town clerks to operate and instruct on the use of vote tabulators.

(b) ~~The~~ Each recount ~~teams established~~ team shall recount the contents of one container before ~~another container is opened~~ opening another container at its table, shall recount the contents of all the containers relating to one polling place before moving to those of another polling place, and shall complete the recount for one town before moving to material relating to another town.

* * *

§ 2602f. ~~FIRST TALLY~~ RECOUNT BY VOTE TABULATOR

(a) ~~The caller shall call the name of the person voted for and/or blank ballots, and/or spoiled ballots. The tally person and the double-check person or persons each shall make a suitable mark for that candidate and/or blank ballots, and/or spoiled ballots~~ Machine-readable ballots from each pile shall be fed through a vote tabulator by one team until all machine-readable ballots from the container have been entered. For ballots unable to be read by a vote tabulator, such as damaged or plain paper ballots, a second team shall collect these ballots from the pile and transfer the voter's choices on those ballots to blank ballots provided by the secretary of state. After all of the machine-readable ballots have been fed through the machine, the first team shall feed through the machine any transfer ballots created by the second team. The recount teams shall switch roles for each subsequent container of ballots of a polling place that are to be fed through the vote tabulator, if there is more than one container per polling place. This process shall be used until all ballots from a polling place have been tabulated by a vote tabulator.

(b) After all ballots from a polling place have been tabulated by a vote tabulator, a recount team shall print the tabulator tape containing the unofficial results and document those results on a tally sheet. Another recount team shall then open the tabulator's ballot box and remove all ballots. The ballots shall then be divided among the recount teams to be examined to find write-in names and markings of voter intent that were not machine readable as outlined in the secretary of state's vote tabulator guide and most recent

elections procedures manual. A caller, tally person, and double-check person shall be used to examine the ballots removed from the ballot box. If the caller and the observer or observers do not agree on how a ballot should be counted, the entire team shall review the ballot and if all members agree, it shall be counted that way.

(c) If one person does not agree, that ballot shall be set aside as a questioned ballot and a copy shall be made, which copy shall be clearly marked on its face identifying it as a copy. Such copies shall be placed on the top of the other ballots and shall remain together with the other ballots. Each original ballot deemed questionable shall be attached to a note which identifies it by town, county, polling place and bag seal number. The originals of these questionable ballots shall be clipped to the summary sheet for that polling place and returned to the court for a final decision.

(d) After the court has rendered a final decision on a given questionable ballot it shall be returned to the county clerk who shall keep it in a sealed container for a period of two years.

(e) Write-in votes for preprinted candidates shall be counted as votes for that candidate.

(f) If the tally persons do not agree on the number of votes for a candidate on ballots not able to be read by the vote tabulator, the ballots shall be retallied until they do agree. Then the team shall notify the clerk that it has completed ~~the first~~ its recount.

* * *

Sec. 8. REPEAL

17 V.S.A. §§ 2492 (legislative branch to obtain voting machines); 2602g (second tally); and 2602l (recounts using voting machines) are repealed.

Sec. 9. SECRETARY OF STATE; VOTE TABULATOR COSTS

(a) The secretary of state's office shall pay the following costs associated with 17 V.S.A. § 2491(b) by using federal Help America Vote Act funds, as available:

(1) full purchase and warranty cost of vote tabulators, ballot boxes, and two memory cards for each town;

(2) annual maintenance costs of vote tabulators for each town; and

(3) the first $500.00 of a vote tabulator's memory card configuration cost per each general election.

(b) A town shall pay the remainder of any configuration cost not covered by subdivision (a)(3) of this section.

Sec. 10. EFFECTIVE DATE

> *This act shall take effect on passage, except that Sec. 4, 17 V.S.A. § 2491(b), shall take effect on July 1, 2014.*