

# House Calendar

---

Wednesday, April 20, 2011

106th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

---

## TABLE OF CONTENTS

---

	<b>Page No.</b>
<b>ACTION CALENDAR</b>	
<b>Third Reading</b>	
<b>H. 294</b> Approving amendments to the charter of the city of Montpelier ....	1507
<b>H. 369</b> Health professionals regulated by the board of medical practice....	1507
<b>Favorable with amendment</b>	
<b>H. 298</b> Standardized ballots and vote tabulators .....	1507
Rep. Hubert for Government Operations	
Rep. Yantachka Amendment.....	1511
<b>Favorable</b>	
<b>H. 378</b> Town payments of county taxes .....	1512
Rep. Townsend for Government Operations	
<b>NOTICE CALENDAR</b>	
<b>Committee Bill for Second Reading</b>	
<b>H. 454</b> The administration and issuance of vital records .....	1512
Rep. Devereux for Government Operations	
<b>H. 455</b> The enhanced 911 emergency response system .....	1512
Rep. Hubert for Government Operations	
<b>Favorable with Amendment</b>	
<b>H. 290</b> Adult protective services .....	1513
Rep. Mrowicki for Human Services	
<b>S. 49</b> An act relating to commercial motor vehicle operation on the interstate system .....	1514
Rep. Bohi for Transportation	
<b>Favorable</b>	
<b>S. 53</b> An act relating to the number of prekindergarten children included within a school district's average daily membership.....	1515
Rep. Donovan for Education	

---

---

**ORDERS OF THE DAY**

---

---

**ACTION CALENDAR**

**Third Reading**

**H. 294**

An act relating to approving amendments to the charter of the city of Montpelier

**H. 369**

An act relating to health professionals regulated by the board of medical practice

**Favorable with amendment**

**H. 298**

An act relating to standardized ballots and vote tabulators

**Rep. Hubert of Milton**, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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.

**( Committee Vote: 9-0-2)**

#### **Amendment to be offered by Rep. Yantachka of Charlotte to H. 298**

by striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read:

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 subsections (b) and (c) 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) Except as provided in subsection (c) of this section, 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.

(c) A town with a population of fewer than 4,000 that is required to use a vote tabulator pursuant to this section may opt out of this requirement upon the affirmative vote of its legislative body at a meeting duly warned for that purpose.

#### **Favorable**

#### **H. 378**

An act relating to town payments of county taxes

**Rep. Townsend of Randolph**, for the Committee on **Government Operations**, recommends the bill ought to pass.

( Committee Vote: 10-0-1)

#### **NOTICE CALENDAR**

#### **Committee Bill for Second Reading**

#### **H. 454**

An act relating to the administration and issuance of vital records.

**(Rep. Devereux of Mount Holly** will speak for the Committee on **Government Operations.**)

#### **H. 455**

An act relating to the enhanced 911 emergency response system.

**(Rep. Hubert of Milton** will speak for the Committee on **Government Operations.**)

## Favorable with Amendment

### H. 290

An act relating to adult protective services

**Rep. Mrowicki of Putney**, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. ADULT PROTECTIVE SERVICES; RULEMAKING

The secretary of human services shall adopt rules pursuant to chapter 25 of Title 3 governing the implementation of the statutory responsibilities of the department of disabilities, aging, and independent living, division of licensing and protection, with respect to adult protective services. The rules shall include:

- (1) criteria for screening reports and complaints;
- (2) standards for priority determinations and the timeliness of investigations;
- (3) criteria for substantiating complaints;
- (4) a process for investigating reports and complaints, including guidance on the roles of the victim and the reporter during the investigation process;
- (5) processes for responding to inquiries from victims and reporters and for meeting statutory requirements regarding notification of these individuals;
- (6) standards for coordinating and cooperating with law enforcement and state's attorneys;
- (7) criteria for when and how the division will arrange for protective services in accordance with a written treatment plan;
- (8) criteria for distinguishing possible statutory violations from probable self-neglect;
- (9) appropriate referrals for probable self-neglect;
- (10) a process for closing an investigation; and
- (11) an appeals process that gives the victim and the reporter the right to participate in the appeal of a substantiation.

#### Sec. 2. APPEAL OF UNSUBSTANTIATION

No later than January 15, 2012, the commissioner of disabilities, aging, and independent living shall make a recommendation to the house committee on



human services and the senate committee on health and welfare regarding whether alleged victims of abuse or neglect should have the right to appeal a finding of unsubstantiation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

( Committee Vote: 10-1-0)

**S. 49**

An act relating to commercial motor vehicle operation on the interstate system

**Rep. Bohi of Hartford**, for the Committee on **Transportation**, recommends that the House propose to the Senate that the bill be amended as follows:

In Sec. 2, 23 V.S.A. § 1392, by deleting subdivision (16) and inserting in lieu thereof a new subdivision (16) to read:

(16) Notwithstanding ~~any other provision of law~~ the axle load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on state highways without permit, and upon posted state and town highways and on those highways designated as the national system of interstate and defense highways when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

(A) Vehicles ~~registered~~ operated pursuant to this subdivision (16) shall be subject to the same axle spacing restrictions as are applied to five or more axle vehicles registered to 80,000 pounds as set forth in subdivision (4) of this section;

(B) ~~The following shall also apply to vehicles registered pursuant to this subdivision (16):~~

~~(i) no single axle load shall be in excess of 22,400 pounds except that a 10 percent tolerance shall be allowed on each single axle;~~

~~(ii) no tandem axle load shall be in excess of 36,000 pounds except that a 10 percent tolerance shall be allowed on each tandem axle;~~

~~(iii) no single axle of a tandem axle unit shall support more than 60 percent of the total rate supported by the tandem axle unit;~~

~~(iv) no tri axle group, as defined in subdivision (6)(D) of this section, shall support a gross weight in excess of that allowed in subdivision (4) of this section and no tolerance shall be allowed on any tri axle group;~~

~~(v) no single axle of a tri axle group shall support more than 40 percent of the total weight supported by the tri axle group;~~

~~(vi) the maximum load on any axle of the vehicle shall not exceed more than 600 pounds per inch of tire width computed in conformity with the manufacturer's designated width;~~

~~(vii) no tolerance shall be allowed on the gross weight of any vehicle registered under the provisions of this subdivision, nor shall the axle tolerance permitted in subdivisions (i) and (ii) of this subdivision apply when the vehicle is being operated upon posted state or town highways pursuant to the provisions of section 1400 of this title. On those highways designated as the national system of interstate and defense highways, the provisions of subsection 1391(c) of this title shall apply unless other axle load limits, tolerances, or both are authorized under federal law.~~

(C) The fee for the annual permit as provided in this subdivision shall be \$7.00 when the fee has been paid to register the vehicle for 90,000 pounds or \$285.00 when the vehicle is registered for 80,000 pounds.

**(Committee vote: 10-0-1 )**

**(No Senate Amendments )**

**Favorable**

**S. 53**

An act relating to the number of prekindergarten children included within a school district's average daily membership

**Rep. Donovan of Burlington**, for the Committee on **Education**, recommends that the bill ought to pass in concurrence.

**(Committee Vote: 10-0-1)**

**(For text see Senate Journal 4/5/11 )**