

# Journal of the House

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Wednesday, May 20, 2020

At eleven o'clock in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Rep. Carl Demrow of Corinth.

## Message from the Senate No. 38

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Governor has informed the Senate that on the fourteenth day of May, 2020, he approved and signed bills originating in the Senate of the following titles:

**S. 182.** An act relating to government operations regarding emergency medical services and public safety in response to COVID-19.

**S. 333.** An act relating to establishing a moratorium on ejection and foreclosure actions during the COVID-19 emergency.

**S. 344.** An act relating to temporary municipal tax rate provisions in response to COVID-19.

## Message from the Senate No. 39

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

**S. 185.** An act relating to the adoption of a climate change response plan.

**S. 226.** An act relating to statewide public school employee health benefits.

**S. 337.** An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 53.** Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

**Committee Bill Introduced**

**H. 956**

By the General, Housing, and Military Affairs

House bill, entitled

An act relating to miscellaneous amendments to alcoholic beverage laws

Pursuant to House rule 48, the bill was placed on the Calendar for Notice. Pending appearance on the Calendar for Notice, affecting the revenue of the state, under rule 35(a), was referred to the committee on Ways and Means.

**Committee Bill Introduced**

**H. 957**

By the committee on Education,

An act relating to extending the deadline to test for lead in the drinking water of school buildings;

Was read and pursuant to House rule 48, bill placed on the Calendar for Notice.

**Senate Bill Referred**

**S. 185**

Senate bill, entitled

An act relating to adopting a climate change response plan and regional planning commission involvement in identifying health care-related needs

Was read and referred to the committee on Human Services.

**Senate Bill Referred**

**S. 226**

Senate bill, entitled

An act relating to statewide public school employee health benefits

Was read and referred to the committee on General, Housing, and Military Affairs.

**Senate Bill Referred****S. 337**

Senate bill, entitled

An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors

Was read and referred to the committee on Energy and Technology.

**Joint Resolution Adopted in Concurrence****J.R.S. 53**

By Senator Ashe,

**J.R.S. 53.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Thursday, May 21, 2020, or, Friday, May 22, 2020, it be to meet again no later than Tuesday, May 26, 2020.

Was taken up, read and adopted in concurrence.

**Third Reading; Bill Passed****H. 953**

House bill, entitled

An act relating to fiscal year 2020 supplemental budget adjustments

Was taken up, read the third time and passed.

**Committee Bill; Second Reading; Third Reading Ordered****H. 954**

**Rep. Young of Greensboro** spoke for the committee on Ways and Means.

House bill entitled

An act relating to miscellaneous tax provisions

Having appeared on the Calendar one day for Notice, was taken up, read the second time and third reading ordered.

**Second Reading; Proposal of Amendment Agreed to;****Third Reading Ordered****S. 255**

**Rep. Ralph of Hartland**, for the committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to captive insurance

Reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Agency Captives \* \* \*

Sec. 1. 8 V.S.A. § 6002 is amended to read:

§ 6002. LICENSING; AUTHORITY

(a) Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the Commissioner for a license to do any and all insurance comprised in subdivisions 3301(a)(1), (2), (3)(A)–(C), (E)–(Q), and (4)–(9) of this title and may grant annuity contracts as defined in section 3717 of this title; provided, however, that:

(1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business.

(2) No agency captive insurance company may do any insurance business in this State unless:

(A) an insurance agency or brokerage that owns or controls the agency captive insurance company remains in regulatory good standing in all states in which it is licensed;

(B) it insures only the risks of the commercial policies that are placed by or through an insurance agency or brokerage that owns or directly or indirectly controls the agency captive insurance company and, if required by the Commissioner in his or her discretion, it provides the Commissioner the form of such commercial policies;

(C) it discloses to the original policyholder or policyholders, in a form or manner approved by the Commissioner, ~~any limitations, rights, and obligations held by that~~ the agency captive insurance company as a result of its affiliation with an insurance agency or brokerage may enter into a reinsurance or other risk-sharing agreement with the agency or brokerage; and

\* \* \*

\* \* \* Dormant Captives \* \* \*

Sec. 2. 8 V.S.A. § 6024 is amended to read:

§ 6024. DORMANT CAPTIVE INSURANCE COMPANIES

(a) As used in this section, unless the context requires otherwise, “dormant captive insurance company” means a captive insurance company that has:

(1) ceased transacting the business of insurance, including the issuance of insurance policies; and

(2) no remaining liabilities associated with insurance business transactions or insurance policies issued prior to the filing of its application for a certificate of dormancy under this section.

(b) A captive insurance company domiciled in Vermont that meets the criteria of subsection (a) of this section may apply to the Commissioner for a certificate of dormancy. The certificate of dormancy shall be subject to renewal every five years and shall be forfeited if not renewed within such time.

(c) A dormant captive insurance company that has been issued a certificate of dormancy shall:

(1) possess and thereafter maintain unimpaired, paid-in capital and surplus of not less than \$25,000.00; provided, however, that if the dormant captive insurance company had never capitalized, it shall not be required to add capital upon entering dormancy;

\* \* \*

\* \* \* Capital and Surplus Requirements; Mergers \* \* \*

Sec. 3. 8 V.S.A. § 6004 is amended to read:

§ 6004. MINIMUM CAPITAL AND SURPLUS; LETTER OF CREDIT

(a) No captive insurance company shall be issued a license unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of:

\* \* \*

(6) in the case of a sponsored captive insurance company, not less than ~~\$250,000.00~~ \$100,000.00.

\* \* \*

(c) Capital and surplus may be in the form of cash, marketable securities, a trust approved by the Commissioner and of which the Commissioner is the sole beneficiary, or an irrevocable letter of credit issued by a bank approved by the Commissioner. The Commissioner may reduce or waive the capital and surplus amounts required by this section pursuant to a plan of dissolution for the company approved by the Commissioner.

\* \* \*

Sec. 3A. 8 V.S.A. § 6006(j) is amended to read:

(j) The provisions of chapter 101, subchapters 3 and 3A of this title, pertaining to mergers, consolidations, conversions, mutualizations, redomestications, and mutual holding companies, shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein, except that:

\* \* \*

(6) The Commissioner may waive or modify application of the provisions of chapter 132 and chapter 101, subchapters 3 and 3A of this title and the provisions of Titles 11, 11A, and 11B in order to permit mergers of a non-insurer subsidiary of a captive insurance company with and into the captive insurance company or another of its subsidiaries without approval of the shareholders, members, or subscribers of such captive insurance company and without making available to the shareholders, members, or subscribers dissenters' rights otherwise made available in such a merger; provided, however, that the board of directors, managers, or subscribers' advisory committee of each of the merging entities shall approve such merger. The Commissioner may condition any such waiver or modification upon a good faith effort by the captive insurance company to provide notice of the merger to its shareholders, members, or subscribers.

\* \* \* Protected Cells; Unaffiliated Businesses \* \* \*

Sec. 4. 8 V.S.A. § 6034 is amended to read:

§ 6034. PROTECTED CELLS

A sponsored captive insurance company formed or licensed under the provisions of this chapter may establish and maintain one or more protected cells to insure risks of one or more participants or, subject to Commissioner approval, other parties unaffiliated with a participant, subject to the following conditions:

\* \* \*

\* \* \* Protected Cells; Separate Accounts \* \* \*

Sec. 5. REDESIGNATIONS

8 V.S.A. §§ 6034b, 6034c, and 6034d are redesignated as §§ 6034c, 6034d, and 6034e.

Sec. 6. 8 V.S.A. § 6034b is added to read:

§ 6034b. SEPARATE ACCOUNTS OF PROTECTED CELLS

With the Commissioner's prior written approval, a protected cell of a sponsored captive insurance company may establish one or more separate

accounts and may allocate to them amounts to provide for the insurance of risks of one or more participants, or controlled unaffiliated business of such participant or participants, subject to the following:

(1) The income, gains, and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains, or losses of the protected cell.

(2) Amounts allocated to a separate account in the exercise of the power granted by this subsection are owned by the protected cell, and the protected cell may not be nor hold itself out to be a trustee with respect to such amounts.

(3) Unless otherwise approved by the Commissioner, assets allocated to a protected cell shall be valued in accordance with the rules otherwise applicable to the protected cell's assets.

(4) If and to the extent so provided under the applicable contracts, that portion of the assets of any such protected cell equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the protected cell may conduct.

(5) No sale, exchange, or other transfer of assets may be made by such protected cell between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in the case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made and unless such transfer, whether into or from a separate account, is made by a transfer of cash or by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the Commissioner. The Commissioner may approve other transfers among such accounts if, in his or her opinion, such transfers would be equitable.

(6) To the extent such protected cell deems it necessary to comply with any applicable federal or State laws, such protected cell, with respect to any separate account, including any separate account that is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such protected cell, to manage the business of such account.

Sec. 7. 8 V.S.A. § 6010 is amended to read:

§ 6010. LEGAL INVESTMENTS

(a)(1) Except as may be otherwise authorized by the Commissioner, agency captive insurance companies, association captive insurance companies, sponsored captive insurance companies, protected cells in sponsored captive insurance companies, and risk retention groups shall:

(A) comply with the investment requirements contained in sections 3461 through 3472 of this title, as applicable; or

(B) submit for approval by the Commissioner the investment policy of the company. In reviewing the investment policy, the Commissioner shall consider diversification as to both type and issue; limits on the aggregate investment that may be made in any category of investment; limits on the aggregate investment in any one business, issuer, or risk; liquidity; and matching of assets and liabilities. The Commissioner shall determine whether the investment policy provides for the reasonable preservation, administration, and management of assets with respect to the risks associated with the company's transactions and whether the investment policy supports the approved business plan. Subdivision 6002(c)(3) of this title shall apply to all information submitted pursuant to this subsection.

(2) The Commissioner may require any company subject to this subsection to limit or withdraw from certain investments or discontinue certain investment practices if the Commissioner determines that such investments or practices of the company might be hazardous to the policyholders or the general public.

Sec. 8. 8 V.S.A. § 6037 is amended to read:

§ 6037. INVESTMENTS BY SPONSORED CAPTIVE INSURANCE

COMPANIES AND PROTECTED CELLS

Notwithstanding the provisions of section 6034 of this title, the assets of two or more protected cells may be combined for purposes of investment, and such combination shall not be construed as defeating the segregation of such assets for accounting or other purposes. Sponsored captive insurance companies and protected cells shall comply with the investment requirements contained in ~~sections 3461 through 3472~~ section 6010 of this title, ~~as applicable; provided, however, that compliance with such investment requirements shall be waived for sponsored captive insurance companies to the extent that credit for reinsurance ceded to reinsurers is allowed pursuant to section 6011 of this title or to the extent otherwise deemed reasonable and appropriate by the Commissioner. Section 3463a of this title shall apply to sponsored captive insurance companies except to the extent it is inconsistent with approved accounting standards in use by the company.~~ Notwithstanding



~~any other provision of this title, the Commissioner may approve the use of alternative reliable methods of valuation and rating.~~

\* \* \* Conforming Cross-references \* \* \*

Sec. 9. 8 V.S.A. § 6018 is amended to read:

§ 6018. DELINQUENCY

Except as otherwise provided in this chapter, the terms and conditions set forth in chapter 145 of this title shall apply in full to captive insurance companies formed or licensed under this chapter; however, the assets of a separate account established under subsection 6006~~(p)~~(q) of this chapter shall not be used to pay any expenses or claims other than those attributable to such separate account.

Sec. 10. 8 V.S.A. § 6034a is amended to read:

§ 6034a. INCORPORATED PROTECTED CELLS

(a) A protected cell of a sponsored captive insurance company may be formed as an incorporated protected cell, as defined in subdivision 6032~~(1)~~(2) of this title.

\* \* \*

\* \* \* Risk Retention Groups; Examinations; Conduct; Reports; NAIC  
Accreditation Standards \* \* \*

Sec. 11. 8 V.S.A. § 6052(d) is amended to read:

(d) The provisions of subsection 6008(c) and sections 3573 and 3574 of this title shall apply to risk retention groups chartered in this State, except that such provisions shall not apply to final examination reports relating to risk retention groups and except that the Commissioner may, in the Commissioner's discretion, grant access to any other examination information covered by subsection 6008(c) of this title to representatives of the National Association of Insurance Commissioners to inspect (but not copy) such information in connection with accreditation examinations, so long as the National Association of Insurance Commissioners agrees in writing to maintain the confidentiality of such information.

\* \* \* Affiliated Reinsurance Companies \* \* \*

Sec. 11A. 8 V.S.A. § 6049b(1) is amended to read:

(1) "Affiliated reinsurance company" means a company licensed by the Commissioner pursuant to this subchapter to reinsure risks ceded by ~~a ceding insurer~~ one or more ceding insurers that is its parent or affiliate ~~are affiliated companies.~~ Subject to the prior approval of the Commissioner, not more than

10 percent of the risks reinsured may be ceded by ceding insurers that are not affiliated companies.

\* \* \* Effective Date \* \* \*

Sec. 12. EFFECTIVE DATE

This act shall take effect on passage

The bill, having appeared on the Calendar one day for Notice, was taken up, read the second time, the report of the committee on Commerce and Economic Development agreed to and third reading ordered.

**Third Reading; Bill Passed**

**H. 673**

House bill, entitled

An act relating to tree wardens

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Smith of Derby** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 114. Nays, 32.

Those who voted in the affirmative are:

Ancel of Calais	Graham of Williamstown	Ode of Burlington
Anthony of Barre City	Haas of Rochester	O'Sullivan of Burlington
Austin of Colchester	Hango of Berkshire	Pajala of Londonderry
Bancroft of Westford	Hashim of Dummerston	Partridge of Windham *
Bartholomew of Hartland	Hill of Wolcott	Patt of Worcester
Birong of Vergennes	Hooper of Montpelier	Potter of Clarendon
Bock of Chester	Hooper of Randolph	Pugh of South Burlington
Briglin of Thetford	Hooper of Burlington	Rachelson of Burlington
Browning of Arlington	Houghton of Essex	Ralph of Hartland
Brumsted of Shelburne	Howard of Rutland City	Redmond of Essex
Burke of Brattleboro	James of Manchester	Reed of Braintree
Campbell of St. Johnsbury	Jerome of Brandon	Rogers of Waterville
Carroll of Bennington	Jessup of Middlesex	Scheu of Middlebury
Chase of Colchester	Killacky of South Burlington	Scheuermann of Stowe
Chesnut-Tangerman of Middletown Springs	Kimbell of Woodstock	Seymour of Sutton
Christensen of Weathersfield	Kitzmiller of Montpelier	Shaw of Pittsford
Christie of Hartford	Kornheiser of Brattleboro	Sheldon of Middlebury
Cina of Burlington	Krowinski of Burlington	Sibilia of Dover
Coffey of Guilford	LaClair of Barre Town	Smith of New Haven
Colburn of Burlington	LaLonde of South Burlington	Squirrell of Underhill
Colston of Winooski	Lanpher of Vergennes	Stevens of Waterbury
Conlon of Cornwall	Lippert of Hinesburg	Strong of Albany
		Sullivan of Burlington

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Conquest of Newbury	Long of Newfane	Taylor of Colchester
Copeland Hanzas of Bradford	Macaig of Williston	Till of Jericho
Corcoran of Bennington	Marcotte of Coventry	Toleno of Brattleboro
Cordes of Lincoln	Martel of Waterford	Toll of Danville
Demrow of Corinth	Masland of Thetford	Townsend of South Burlington
Dolan of Waitsfield	McCarthy of St. Albans City	Troiano of Stannard
Donovan of Burlington	McCormack of Burlington	Tully of Rockingham
Durfee of Shaftsbury	McCullough of Williston	Walz of Barre City
Emmons of Springfield	McFaun of Barre Town	Webb of Shelburne
Fegard of Berkshire	Morris of Springfield	White of Hartford
Feltus of Lyndon	Mrowicki of Putney	Wood of Waterbury
Gannon of Wilmington	Murphy of Fairfax	Yacovone of Morristown
Gardner of Richmond	Myers of Essex	Yantachka of Charlotte
Giambatista of Essex	Nicoll of Ludlow	Young of Greensboro
Gonzalez of Winooski	Norris of Shoreham	
Grad of Moretown	Noyes of Wolcott	
	O'Brien of Tunbridge	

Those who voted in the negative are:

Batchelor of Derby	Fagan of Rutland City	Morrissey of Bennington
Bates of Bennington	Gamache of Swanton	Notte of Rutland City
Beck of St. Johnsbury	Goslant of Northfield	Page of Newport City
Brennan of Colchester	Gregoire of Fairfield *	Palasik of Milton
Brownell of Pownal	Harrison of Chittenden	Quimby of Concord
Canfield of Fair Haven	Higley of Lowell	Rosenquist of Georgia
Cupoli of Rutland City	Lefebvre of Newark	Savage of Swanton
Dickinson of St. Albans Town	Leffler of Enosburgh	Smith of Derby *
Donahue of Northfield	Mattos of Milton	Sullivan of Dorset
Elder of Starksboro	McCoy of Poultney	Szott of Barnard
	Morgan of Milton	Toof of St. Albans Town

Those members absent with leave of the House and not voting are:

Burditt of West Rutland	Helm of Fair Haven	Terenzini of Rutland Town
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**Rep. Gregoire of Fairfield** explained his vote as follows:

“Madam Speaker:

I vote no because I believe in the leaders of my towns. They know what is best for their communities.”

**Rep. Partridge of Windham** explained her vote as follows:

“Madam Speaker:

The bill does not take any rights or responsibilities away from the legislative body in towns. What it does is it reinforces the fact that legislative bodies should be appointing tree wardens. Not all towns do. There is no penalty for not appointing tree wardens, however, it's meant to reinforce the importance of this position given the fact that we are confronted with a

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different kind of pandemic and that is the Emerald Ash Borer.”

**Bill Committed**

**H. 611**

House bill, entitled

An act relating to the Older Vermonters Act

Appearing on the Calendar for Action, was taken up and pending the reading of the report of the committee on Human Services, on motion of **Rep. Pugh of South Burlington**, the bill was committed to the committee on Appropriations.

**Rules Suspended; Bill Messaged to Senate Forthwith**

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**H. 953**

House bill, entitled

An act relating to fiscal year 2020 supplemental budget adjustments

**Adjournment**

At twelve o'clock and thirty-six minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until Friday, May 22, 2020 at ten o'clock in the forenoon.