JOURNAL OF THE HOUSE.

Monday, July 2, 2001.

Met according to adjournment, at eleven o'clock A.M.

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, we depend upon You to direct and guide us in our struggle to address and resolve fairly the items on today's legislative calendar. We pray for Your assistance and for Your gift of wisdom to help us keep our thoughts, the issues, and our agenda in focus. Inspire us to promote legislation which currently serves the best interests of the people and protects the interests of future generations. In this age of vast amounts of information (some accurate but some incorrect), grant us the capacity and the patience to analyze issues carefully and in a methodical manner. Even though our schedules are busy and our obligations many, may we continue to remain faithful to You, Your ways and precepts, our political and religious principles and to the people who depend upon us and our social judgements.

Bestow Your blessings on the Speaker, the members and employees of this House and their families. Amen.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Messages from the Acting Governor.

A message from Her Honor the Lieutenant-Governor, Acting Governor, submitting recommendations for making appropriations for the fiscal year 2001 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4282) was filed in the office of the Clerk on Thursday, June 28.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

A message from Her Honor the Lieutenant-Governor, Acting Governor, recommending legislation relative to making appropriations for certain one-time investments, improvements and payments (House, No. 4283) was filed in the office of the Clerk on Thursday, June 28.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

Statement Concerning Representative Ciampa of Somerville.

A statement of Mr. DiMasi of Boston concerning Mr. Ciampa of Somerville was spread upon

the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Ciampa of Somerville, will not be present in the House Chamber for today's sitting due to official business outside of the Commonwealth. Any roll calls that he may miss today is due entirely to the reason stated.

Statement Concerning Representative O'Flaherty of Chelsea.

A statement of Mr. DiMasi of Boston concerning Mr. O'Flaherty of Chelsea was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative O'Flaherty of Chelsea, will not be present in the House Chamber for today's sitting due to his being outside of the Commonwealth attending the wedding of a family member. Any roll calls that he may miss today is due entirely to the reason stated.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Messrs. McGee of Lynn and Fennell of Lynn) honoring Alice Cuthbert O'Neil of Lynn on her dedication to Little League baseball and her outstanding commitment to her community; and

Resolutions (filed by Ms. Story of Amherst) honoring Doctor Billy Taylor for his contributions to jazz and to the University of Massachusetts at Amherst;

Mr. Honan of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Ms. Story, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

The House Bill establishing a sick leave bank for Rena C. Pelletier, an employee of the Trial Court (House, No. 3760) came from the Senate passed to be engrossed, in concurrence, with an amendment adding at the end thereof the following sentence: "Whenever Rena C. Pelletier terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.".

Under suspension of Rule 35, on motion of Mr. Dempsey of Haverhill, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill further extending the time for which certain land in Norfolk County may be used as a temporary minimum security alternative correction center (House, No. 4251) came

from the Senate passed to be engrossed, in concurrence, with an amendment inserting before the enacting clause the following emergency preamble:

"*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to extend further the time for which certain land in Norfolk county may be used as a temporary minimum security alternative correction center, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; and adding at the end thereof the following section:

"SECTION 2. This act shall take effect as of June 30, 2001.".

Under suspension of Rule 35, on motion of Mr. Sullivan of Braintree, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Bills

Relative to the safe administration of medications and legible prescriptions (Senate, No. 1915) (on Senate bill, No. 1842);

To reduce the loss of life due to fires caused by cigarettes (Senate, No. 1916) (on Senate bill, No. 1194);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

A Bill relative to the crimes of assault and battery and assault and battery by means of a dangerous weapon (Senate, No. 167, amended by the Senate in section 1, in line 27, and also in section 2, in line 29, by striking out, in each instance, the word "protracted") (on Senate, No. 155 and House, Nos. 2286 and 3910), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports

Of the committee on Health Care, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2169) of Rachel Kaprielian and other members of the General Court relative to the expansion of health care, the reduction of youth smoking and the use of tobacco products and improving the public health of residents of the Commonwealth; and

Of the committee on Housing and Urban Development, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 646) of Bruce E. Tarr, Anthony J. Verga, Mary Jeanette Murray, Brian P. Lees and other members of the General Court for legislation to create a statewide assisted living facility master plan;

And recommending that the same severally be referred to the Senate committee on Ways and Means.

Severally accepted by the Senate, were considered forthwith, under Rule 42; and they were accepted, in concurrence, insomuch as relates to the discharge of the committees.

Reports of Committees.

By Mr. Donnelly of Boston, for the committee on the Judiciary, on House, Nos. 8, 38, 209, 222, 223, 226, 290, 294, 472, 475, 476, 478, 479, 480, 481, 482, 483, 609, 634, 635, 636, 637, 638, 640, 643, 837, 840, 844, 846, 847, 850, 1041, 1044, 1045, 1046, 1048, 1050, 1052, 1053, 1054, 1056, 1057, 1058, 1216, 1217, 1219, 1221, 1223, 1224, 1225, 1229, 1230, 1231, 1232, 1233, 1234, 1424, 1428, 1431, 1432, 1433, 1436, 1439, 1440, 1441, 1607, 1610, 1613, 1614, 1615, 1616, 1617, 1618, 1801, 1806, 1810, 1815, 1817, 1829, 1834, 1975, 1980, 1981, 1982, 1984, 1985, 1986, 1995, 1996, 1997, 1999, 2003, 2195, 2197, 2199, 2200, 2201, 2203, 2368, 2371, 2372, 2373, 2376, 2377, 2378, 2380, 2381, 2545, 2547, 2549, 2550, 2551, 2552, 2553, 2561, 2562, 2563, 2567, 2724, 2726, 2729, 2736, 2737, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2751, 2928, 2932, 2933, 2934, 2935, 2936, 2938, 2939, 3124, 3125, 3127, 3130, 3132, 3135, 3136, 3137, 3140, 3142, 3144, 3145, 3147, 3360, 3364, 3368, 3370, 3371, 3373, 3374, 3377, 3568, 3573, 3574, 3755, 3756, 3757, 3761, 3762, 3877, 3878, 3949 and 3952, an Order relative to authorizing the committee on the Judiciary to make an investigation and study of certain House documents on judicial procedures and other related matters (House, No. 4280). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported, asking to be discharged from further consideration of the order; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Cabral of New Bedford, for the committee on Human Services and Elderly Affairs, on a petition, a Bill relative to the provision of services to adolescent parents and their children (House, No. 450).

By the same member, for the same committee, on a petition, a Bill relative to the preservation of families (House, No. 830).

By the same member, for the same committee, on a petition, a Bill to study kinship families in Massachusetts (House, No. 831).

By the same member, for the same committee, on a petition, a Bill requiring minimum educational requirements for children in the custody of the Department of Youth Services (House, No. 1400).

By the same member, for the same committee, on a petition, a Bill requiring children committed to the Department of Youth Services to receive a high school diploma or its equivalent (House, No. 1401).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Scaccia of Boston, for the committee on Rules, that the Bill promoting energy

efficiency and conservation (House, No. 4006) ought to pass with an amendment in section 2, in line 4, by striking out the following: “and three mils ($0.003)” and inserting in place thereof the following: “and two and one-half mils ($0.0025)”. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

By Mr. Wagner of Chicopee, for the committee on Election Laws, that the following bills ought to pass:

Validating certain elections held in the town of Essex (printed in House, No. 4052);

Relative to elections for town meeting member in Milford (printed in House, No. 4069); and

Validating the action taken by the town of Swampscott in certifying certain nomination papers for the April 24, 2001 election in the town of Swampscott (printed in House, No. 4133); and

By Mr. Scaccia of Boston, for the committee on Rules, that the following bills ought to pass:

Providing for the destruction of certain dogs (House, No. 1539); and

Establishing an open space fund in the town of Wareham (House, No. 1707) [Local Approval Received];

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

By Mr. Quinn of Dartmouth, for the committee on Banks and Banking, on House, Nos. 8 and 15, a Bill relative to prepayment penalties for certain mortgage loans (House, No. 15).

By the same member, for the same committee, on House, Nos. 8 and 25, a Bill relative to the operation of certain banking laws (House, No. 25).

By the same member, for the same committee, on a petition, a Bill relative to the list of legal investments prepared by the Commissioner of Banks (House, No. 1339).

By the same member, for the same committee, on a petition, a Bill relative to the governance and management of state chartered banks (House, No. 1723).

By the same member, for the same committee, on a petition, a Bill relative to deceased depositors (House, No. 3479).

By Mr. Greene of Billerica, for the committee on Commerce and Labor, on House, Nos. 88 and 89, a Bill relative to the use of the term “local” in marketing certain produce and poultry products (House, No. 89).

By Mr. Wagner of Chicopee, for the committee on Election Laws, on a petition, a Bill providing for automatic recount of municipal elections in the city of Springfield (House, No. 4150) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill confirming the election of a

planning board member to a five year term in the town of Hampden (House, No. 4222) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill validating the proceedings of the annual town election in the town of Hampden (House, No. 4223) [Local Approval Received].

By the same member, for the same committee, on a message from Her Honor the Lieutenant-Governor, Acting Governor, a Bill validating the results of the 2001 annual town election held in the town of Dennis (printed in House, No. 4229).

By Mr. Cabral of New Bedford, for the committee on Human Services and Elderly Affairs, on House, Nos. 2532 and 2714, a Bill clarifying restrictive covenants (House, No. 2532).

By the same member, for the same committee, on a petition, a Bill further regulating adoption agencies (House, No. 2919).

By Mr. Casey of Winchester, for the committee on Taxation, on House, Nos. 2085 and 2272, a Bill returning tax title properties to productive use (House, No. 2272).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measures.

The engrossed Bill relative to gas or electric companies declaring stock or scrip dividend (see Senate, No. 416), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 32 to 0. Sent to the Senate for concurrence.

The engrossed Bill further extending the time for which certain land in Norfolk County may be used as a temporary minimum security alternative correction center (see House, No. 4251), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 50 to 6. Sent to the Senate for concurrence.

Engrossed Bill.

The engrossed Bill exempting debt of the city of Lawrence for certain approved school projects from the statutory limit (see House, No. 4202) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be

enacted; and it was signed by the Speaker and sent to the Senate.

Orders of the Day.

House bills

Relative to the net school spending of the Southern Worcester County Regional Vocational School District (printed as Senate, No. 1864);

Authorizing the transfer of a certain parcel of land in the town of North Reading (House, No. 356);

Relative to dangerous buildings (House, No. 1259);

Authorizing the conservation commission of the town of Groton to impose certain fees (House, No. 1837);

Relative to the town of Nantucket (House, No. 3525); and

Authorizing the town of Norwood to use certain conservation land for roadway and bridge purposes (House, No. 4091);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

The House Bill exempting Dennis J. Mahoney of Arlington from maximum age requirements for applying for civil service appointment as a police officer in the town of Arlington (printed as Senate, No. 1911) was read a second time; and it was ordered to a third reading.

The House Bill relative to anti-rabie vaccine reimbursement (House, No. 2856) was rejected (as recommended by the committee on Insurance).

The House report of the committee on Public Safety, ought NOT to pass, on a message from His Excellency the Governor recommending legislation relative to establishing certain attendance requirements for minors to obtain a driver's license (accompanied by bill, House, No. 4063) was accepted. Sent to the Senate for concurrence.

House reports

Of the committee on Commerce and Labor, ought NOT to pass, on the petition (accompanied by bill, House, No. 2109) of Rachel Kaprielian, Steven A. Tolman, Susan C. Fargo, Bruce E. Tarr and Emile J. Goguen for legislation to create a loan pool for the promotion of job training programs in the Commonwealth; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2654) of Christopher J. Hodgkins, John F. Merrigan, Benjamin Swan, Patricia D. Jehlen, Shirley Gomes and Edward G. Connolly for legislation to require safety conditions in

commercial establishments;

Of the committee on Election Laws, ought NOT to pass, on the petition (accompanied by bill, House, No. 798) of Brian S. Dempsey and James P. Jajuga for legislation to further regulate the solicitation of campaign contributions in certain buildings;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 800) of Timothy J. Toomey, Jr., other members of the House and others (with the approval of the mayor and city council) relative to initiative and referendum petitions in the city of Cambridge;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1179) of Joel D'Errico for legislation to authorize certain non-residents to vote in municipal elections;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2304) of Ronald Mariano relative to the method of conducting recounts of elections in the Commonwealth;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2687) of Antonio F. D. Cabral and David C. Bunker, Jr., for legislation to reform the election recount law with a particular emphasis on the standards for judicial review;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3524) of Bernard Kansky for legislation to regulate voting in local elections by persons who are not in principal residences; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3863) of Frank M. Hynes, Viriato Manuel deMacedo and Carol A. Donovan for legislation to regulate voting in local elections by property owners with a principal residence in a different municipality;

Of the committee on Health Care, ought NOT to pass, on the petition (accompanied by bill, House, No. 1762) of Brian Paul Golden and another relative to nuclear pharmacy;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1943) of Salvatore F. DiMasi relative to nuclear pharmacy; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3535) of Paul E. Caron that providers of durable medical equipment be authorized to retain discounts offered by manufacturers, subject to the approval of the Division of Medical Assistance;

Of the committee on Insurance, ought NOT to pass, on the petition (accompanied by bill, House, No. 470) of Leonard H. Golder for legislation to provide medical insurance for prescription and dental services;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No.

1033) of Maureen Fritchy relative to insurance coverage for emergency room care;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1783) of Nancy Flavin relative to increasing reinsurance capacity in the Commonwealth; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2543) of Matthew C. Patrick and other members of the General Court relative to health insurance benefits for health wellness examinations and counselling;

Of the committee on the Judiciary, ought NOT to pass, on the petition (accompanied by bill, House, No. 2548) of Bob LeClair for legislation to regulate the conduct of custodial parents prior to a divorce being declared final;

Of the committee on Local Affairs, ought NOT to pass, on the petition (accompanied by bill, House, No. 296) of Jay R. Kaufman, Susan C. Fargo and Robert A. Havern (by vote of the town) relative to the non-criminal disposition of violations by the historic districts commission in the town of Lexington;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 297) of Jay R. Kaufman, Susan C. Fargo and Robert A. Havern (by vote of the town) relative to the construction of underground lateral wires and conduits in the town of Lexington;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 4204) of Robert Spellane (by vote of the town) for legislation to provide for the appointment of a treasurer-collector in the town of Paxton; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 4236) of Douglas W. Petersen and Edward J. Clancy, Jr. (by vote of the town) for legislation to provide for the appointment of a town clerk-collector-treasurer in the town of Swampscott;

Of the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, House, No. 267) of R. William Perron relative to the staffing of facilities operated by the Department of Correction;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1100) of Thomas P. Kennedy that the Registrar of Motor Vehicles be directed to issue distinctive license plates for combat veterans;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1266) of Bradford Hill, Bruce E. Tarr, Edward J. Clancy and Robert E. Travaglini that the Secretary of Public Safety be directed to promote child safety in all public elementary schools and at state parks, forests and reservations;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3094) of William M. Straus and Marc R. Pacheco relative to the licensing and certification of stationary gas turbine operators;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No.

3394) of Christopher G. Fallon for legislation to provide that all classrooms have two direct means of egress to the hallways;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3584) of Paul E. Caron relative to the granting of special police powers to school bus operators and monitors; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3969) of Robert F. Fennell, Thomas M. McGee, Emile J. Goguen, Susan W. Pope and another for legislation to regulate the renewal of licenses to operate motor vehicles of persons who have not complied with certain liens in cities and towns; and

Of the committee on Public Service, ought NOT to pass, on the petition (accompanied by bill, House, No. 888) of AFSCME Council 93 and David Paul Linsky relative to the retirement rights of forest and park supervisors;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 899) of AFSCME Council 93 and John A. Stefanini relative to the retirement rights of power plant employees at public higher education institutions;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1279) of AFSCME Council 93, Vincent P. Ciampa, Thomas J. O'Brien and Susan C. Fargo that tree linemen be placed in Group 4 of the contributory retirement system; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1286) of the National Association of Government Employees and Brian S. Dempsey for legislation to regulate the retirement of public employees from cities, towns, counties and from the Commonwealth;

Severally were accepted.

The House report of the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, House, No. 2769) of Antonio F. D. Cabral, Patricia D. Jehlen, Benjamin Swan, John A. Stefanini, Deborah D. Blumer and George Rogers for legislation to authorize the Registrar of Motor Vehicles to administer alternative language tests to applicants for commercial drivers licenses, was considered.

Pending the question on acceptance of the report, the petition was recommitted, on motion of Mr. Toomey of Cambridge.

Recesses.

At twenty minutes after eleven o'clock A.M., on motion of Mr. Sullivan of Fall River, the House recessed until one o'clock P.M.; and at that time the House was called to order.

At eighteen minutes after two o'clock P.M., Mr. DiMasi of Boston took the Chair and thereupon declared a recess subject to the call of the Chair; and at seven minutes before three

o’clock, the House was called to order with Mr. DiMasi in the Chair.

Engrossed Bills — Land Takings.

The engrossed Bill authorizing the Division of Fisheries and Wildlife to acquire conservation restrictions to lands of the Dalton Fire District (see Senate, No. 1884) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 87 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the commissioner of Capital Asset Management and Maintenance to acquire conservation restrictions to lands of the Springfield Water and Sewer Commission (see House, No. 4276) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 88 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Message from the Acting Governor — Veto.

A message from Her Honor the Lieutenant-Governor, Acting Governor returning with her objections thereto in writing the engrossed Bill relative to the Springfield civic and convention centers [see House, No. 4124] (for message, see House, No. 4281) was filed this day in the Office of the Clerk.

The message was read; and the House proceeded to “reconsider” said bill, the question being “Shall this bill pass, notwithstanding the objections of Her Honor the Lieutenant-Governor, Acting Governor?”.

Pending the question on passing the bill, notwithstanding said objections, further consideration thereof was postponed, on motion of Ms. Rivera of Springfield, until the hour of one o’clock

P.M.

Subsequently, the noon recess having terminated, the bill was considered further.

The question on passing the bill, notwithstanding the said objections, was determined by yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution; and on the roll call 137 members voted in the affirmative and 15 in the negative.

[See Yea and Nay No. 89 in Supplement.]

Therefore the bill was passed, notwithstanding the objections of the Acting Governor (more than two-thirds of the members having agreed to pass the same). Sent to the Senate for its action.

Orders of the Day.

The House Bill relative to the production and preservaiton of affordable housing in the Commonwealth (House, No. 4264) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Broadhurst of Methuen and other members of the House moved that it be amended by inserting after section 7A the following section:

"[A] SECTION 7B. Section 20 of chapter 40B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word 'organization', in line 9, the following words:— or any housing units subsidized by the federal or state government under a rental agreement subject to the provisions of the 'section 8 voucher' subsidy programs, so called."; in section 8, in line 11, by inserting after the word "by-law" the words ", including Manufactured Housing Units located in a Manufactured Housing Community," and by adding at the end thereof the following:

"Manufactured Housing Community": a lot or tract of land defined under Chapter 140, section 32F, with manufactured housing units, and whose park owners have complied with statutory and regulatory requirements regarding rules, regulations and operations.

"Manufactured Housing Unit": a manufactured home as defined by Chapter 140, section 32Q, which is located in a Manufactured Housing Community as defined above, which is occupied on more than a seasonal basis and that is assessed at or below a price deemed affordable to a person at or below 100% of the area median income as determined by the most recent census."; in section 25, in line 2 and also in line 4, by striking out the word "five" and inserting in place thereof, in each instance, the word "seven", in line 13, by inserting after the word "to" (the first time it appears) the following: "recommendations on a new definition of affordable housing, recommendations on a new percentage of affordable housing stock required by each municipality in the commonwealth, and recommendations on rules and regulations governing the operation of the housing appeals committee relative to the application of the provisions of sections 20, 21, 22 and 23 of chapter 40B of the General Laws,", in lines 13 and 14, by striking out the words "the effectiveness of" and in line 14, by striking out the words ", if any,"; in

section 26 (as printed) by striking out the paragraphs contained in lines 22 to 29, inclusive, and inserting in place thereof (in section 27, as inserted by the committee on Bills in the Third Reading) the following sentence: “Any community that has five percent or less affordable housing stock is hereby required to develop and implement a plan approved by the Department of Housing and Community Development; to increase said community’s affordable housing stock by at least two percent within three years of the effective date of this act.”; and by adding at the end thereof the following three sections:

“SECTION 29. Section 20 of chapter 40B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the words ‘organization’ in line 9 the following:— housing units authorized by a comprehensive permit shall be counted when the comprehensive permit becomes final, provided that any housing units for which building permits have not been issued within one year of the date when the comprehensive permit becomes final, shall no longer be counted until building permits have been issued. No housing unit shall be counted more than once for any reason.

SECTION 30. Chapter 40B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following new section:—

Section 20B. All low and moderate income units developed through a comprehensive permit shall have a use restriction of no less than 40 years.

SECT1ON 31. Section 21 of Chapter 40B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following:—

No application for a comprehensive permit with respect to a site may be filed with a board within 12 months of the date of a prior application, or if later, the date of denial by the local permit granting authority for a building permit, variance, special permit, subdivision or other application related to construction on the same land if that application included no low or moderate income housing. No application for a building permit, variance, special permit, subdivision or other application related to construction with respect to a site may be filed with a board within 12 months of the date of an application or if later, the date of denial by the local permit granting authority for a comprehensive permit on the same land. A community shall have the right to waive said 12 month provision.”.

After remarks, Ms. Khan of Newton and other members of the House moved that the amendments offered by Mr. Broadhurst, et als, be amended [at “A”] by striking out proposed section 7B.

After debate the further amendment was rejected, by a vote of 21 to 48.

Pending the question on adoption of the amendments, Mr. Marini of Hanson asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. DiMasi of Boston), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and

on the roll call 146 members were recorded as being in attendance.

[See Yea and Nay No. 90 in Supplement.]

Therefore a quorum was present.

After remarks the amendments were adopted.

Mr. Rogers of Norwood then moved that the bill be amended in section 8 (as printed), in line 9, by striking out the word "and", in lines 12 and 13, by inserting after the word "development" the following: "; and any community housing, as defined in chapter 44B, created by a city or town pursuant to and following its approval of sections 3 through 7, inclusive, of said chapter 44B provided that said approval complies with the approval requirements set forth in that chapter"; and in section 24, in line 11, by inserting after the word "designee" the words ", the commissioner of the department of corrections or his designee, the president of the Massachusetts Sheriff's Association".

The amendments were adopted.

Mr. Marini of Hanson then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 32. A special commission to consist of 6 members of the house of representatives, one of whom shall be a member of the minority party and one of whom shall be co-chair of said committee, 6 members of the senate, one of whom shall be a member of the minority party, and one of whom shall be co-chair of said committee, the Director of the Department of Housing and Community Development or his designee, and persons appointed by the Governor, is hereby established to make a comprehensive study of student housing at public and private universities and colleges, and strategies to increase on-campus and off-campus student housing. This study shall consider among other things on campus housing for non commuters. The Commission shall report its recommendations to the Committees on Housing and Urban Development and Ways and Means by June 30, 2002.".

The amendment was adopted.

The same members then moved that the bill be amended in section 4, in line 7, by striking out the word "bi-annual" and inserting in place thereof the word "biennial"; and the amendment was adopted.

Mr. Kulik of Worthington then moved that the bill be amended in section 25, in line 11, by inserting after the word "Governor" the words ", one of whom shall represent rural housing interests, one of whom shall represent suburban housing interests, and one of whom shall represent urban housing interests"; and the amendment was adopted.

Mr. Marini of Hanson and other members of the House then moved that the bill be amended in section 24, in line 47, by striking out the words "department of housing and community development" and inserting in place thereof the words "executive office of administration and

finance"; and the amendment was adopted.

Mr. Hill of Ipswich then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 33. Clause forty-first B of Section 5 of Chapter 59 is hereby amended by adding at the end thereof the following:—

(B) that a city, by vote of its council and approval of its mayor, or a town, by vote of town meeting, adjust the following factors contained in these provisions by:

1. reducing the requisite age of eligibility to any age 65 years or more

2. increasing either of both of amounts contained in the first sentence by not more than one hundred percent.

3. increasing the amounts contained in provision (B) whenever they appear in said clause from ten thousand dollars to not more than 20 thousand dollars and from twelve thousand dollars to not more than thirty thousand dollars

4. increasing the amounts contained in provision (C) whenever they appear in said clause from twenty thousand dollars to not more than forty thousand dollars, from twenty-three thousand dollars to not more than fifty thousand, and further, by increasing the amounts of five hundred dollars and four thousand dollars contained in such provision by not more than one hundred percent.".

On the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 91 in Supplement.]

Therefore the amendment was adopted.

Mr. Rushing of Boston and other members of the House then moved that the bill be amended in section 24, in line 27, by inserting after the word "living" the words "; and to identify the number of housing units affordable to very low income and extremely low income households according to the definition by the United States Department of Housing and Urban Development (or any successor agency)". The amendment was adopted.

Mr. Cahill of Beverly then moved that the bill be amended in section 5, line 109, by inserting after the word "authority" the words: "or housing partnership committee" and, in line 120, by inserting after the word "authority" the words:— "or housing partnership committee."; by striking section 6 and inserting in place thereof the following new section:—

"SECTION 6. Chapter 40 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 59 the following new section:—

Section 60. Notwithstanding any general or special law to the contrary, any city or town by vote of its town meeting, town council, or city council with the approval of the mayor where required by law, on its own behalf or in conjunction with one or more cities or towns, and pursuant to regulations issued by the director of housing and community development, may adopt and prosecute a tax increment financing, hereinafter referred to as a TIF plan, intended to encourage increased residential growth, affordable housing and commercial growth in urban center housing zones and do any and all things necessary thereto; provided, however, that the TIF plan:

(i) designate one or more areas of the city or town as an urban center housing TIF zone, hereinafter referred to as an UCH—TIF zone. An UCH—TIF zone shall be defined as any downtown center characterized by a predominance of commercial land uses, a high daytime or business population, a high concentration of daytime traffic and parking and a need for multi-unit residential properties; provided, however, that the department of housing and community development may further define UCH—TIF zones in a manner consistent with this section; provided, further, that each area so designated by a city or town must fall within an area designated and approved by economic assistance coordinating council, established under section 3B of chapter 23A of the general laws, hereinafter referred to as the EACC, pursuant to regulations adopted by the department of housing and community development, as an UCH—TIF zone; provided, further, that a city or town may not enter into any UCH—TIF agreement, as defined in paragraph (v), unless the area governed by the UCH—TIF agreement is so designated and approved by the EACC; and provided, further, that in the case of a UCH—TIF plan adopted by more than one city or town, the areas designated as UCH—TIF zones shall be contiguous areas of such cities and towns

(ii) describes in detail all construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such UCH—TIF zone as of the date of the adoption of the UCH—TIF plan; provided, however, that in the case of public construction as aforesaid, the UCH—TIF plan shall include a detailed projection of the costs thereof and a betterment schedule for the defrayal of such costs; provided, further, that the UCH—TIF plan shall provide that no costs of such public constructions shall be recovered through betterments or special assessments imposed on any party which has not executed a UCH—TIF agreement in accordance with the provisions of paragraph (v); and provided, further, that in the case of private construction as foresaid, the UCH—TIF plan shall include the types of affordable housing and residential and commercial growth which are projected to occur within such UCH—TIF zone, with documentary evidence of the level of commitment therefore including, but not limited to, architectural plans and specifications as required by said regulations;

(iii) Authorizes tax increment exemptions from property taxes, in accordance with the provisions of clause fifty-first A of section five of chapter fifty-nine, for a specified term not to exceed twenty years, for any parcel of real property which is located in the UCH—TIF zone and for which an agreement has been executed in accordance with the provisions of paragraph (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions expressed as an exemption percentage, not to exceed one hundred percent to be used in calculating the exemption under clause fifty-first A of said chapter fifty-nine; provided, further, that such exemptions shall be calculated for each said parcel as provided in clause fifty-first A using an adjustment factor for each fiscal year since the parcel first became eligible for such exemption

pursuant to this paragraph. The inflation factor for each fiscal year shall be a ratio:

(a) the numerator of which, where the property contains residential uses solely, shall be the total assessed value of all parcels of all residential real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential real estate as determined by the commissioner of revenue pursuant to subsection (f) of section 21C of chapter 59, and

(b) where the property includes a mix of residential and commercial uses, the numerator shall be the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue pursuant to subsection (f) of section 21C of chapter 59; and

(c) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided such ratio should not be less than one.

(iv) establishes a maximum percentage of the costs of any public construction, referenced in paragraph (ii) and initiated subsequent to the adoption of the UCH—TIF plan, that can be recovered through betterments or special assessments against such real property eligible for tax increment exemptions from property taxes pursuant to paragraph (iii) during the period of such parcel's eligibility for exemption from annual property taxes pursuant to clause fifty-first A of section five of chapter fifty-nine, notwithstanding the provisions of chapter eighty or any other general or special law authorizing the imposition of betterments or special assessments;

(v) includes executed agreements, hereinafter referred to as UCH—TIF agreements, between such city and town and each owner of real property which is located in an UCH—TIF zone; provided, however, that each such agreement shall include, but not be limited to, the following: (a) all material representations of the parties which served as a basis for the descriptions contained in the UCH—TIF plan in accordance with the provisions of paragraph (ii) and which served as a basis for the granting of an UCH—TIF exemption; (b) any terms deemed appropriate by the city or town relative to compliance with the UCH—TIF agreement including, but not limited to, what shall constitute a default by the property owner, what remedies shall be allowed between the parties for any such defaults, including an early termination of the agreement; (c) provisions requiring that either 25 percent of the housing units assisted by the TIF agreement shall be affordable to occupants or families with incomes at or below 80 percent of the median income for the area in which the city or town is located or such other requirement of affordable housing as is necessary to achieve financial feasibility for the development pursuant to regulations and guidelines promulgated by the department of housing and community development (d) provisions stating that such housing units are subject to use restrictions, an option to purchase and a right of first refusal as defined in subsection (ix); provided, however, that the term, ‘median income’, as used in this paragraph, shall mean the area median gross income as such term is used in section 42 of the 1986 Internal Revenue Code, as amended and in effect for the applicable taxable year, and which is determined by the federal department of housing and urban development guidelines and adjusted for family size; (e) a detailed recitation of the tax increment exemptions and the maximum percentage of the

cost of public improvements that can be recovered through betterments or special assessments regarding such parcel of real property pursuant to paragraphs (iii) and (iv); (f) a detailed recitation of all other benefits and responsibilities inuring to and assumed by the parties to such agreement; and (g) a provision that such agreement shall be binding upon subsequent owners of such parcel of real property;

(vi) Delegates to one board, agency or officer of the city or town the authority to execute agreements in accordance with the provisions of paragraph (v); and

(vii) and an executed UCH—TIF agreement shall be submitted by the applicable city or town to the EACC, or the official authorized by said council to accept such agreements, for the approval of said director; provided, however, that the city or town shall, if it has not previously done so, also submit a plan showing the boundaries of its urban center housing zone or zones and a report explaining the criteria used by said city or town in establishing the same; provided, further, that the EACC, or the official authorized by said council, shall review any such UCH—TIF plan and UCH—TIF agreement to determine whether it complies with the terms of this section and any regulations which may be adopted by the director of the department of housing and community development hereunder; provided, further, that said EACC shall find, based upon the information submitted in support of the UCH—TIF plan by the city or town and through such additional investigation as the EACC or its designee shall make, that the plan and agreement is consistent with the requirements of this section and will further the public purpose of encouraging increased residential growth, affordable housing and commercial growth in urban center housing zones in the commonwealth; provided, further that a city or town may, at any time, revoke its designation of a UCH—TIF zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements pursuant to paragraph (v); provided, further, such revocation shall not affect agreements relative to property tax exemptions and limitations on betterments and special assessments pursuant to said paragraph (v) which were executed prior thereto; and provided, further, that the board, agency, or officer of the city or town authorized pursuant to paragraph (vi) to execute agreements shall forward to the board of assessors a copy of each such agreement, together with a list of the parcels included therein.

Notwithstanding the provisions of any other general or special law, any affordable housing units benefiting from a real estate tax exemption under this section, as a result of the requirement in subsection (v)(c), shall remain affordable for forty years or for its useful life, whichever is longer. Such restriction shall be approved by the EACC in accordance with section 32 of chapter 184 of the general laws and recorded in the registry of deeds for the district wherein the land lies. Upon the expiration of such restrictions, the department of housing and community development or its assigns shall have an option to purchase said units and shall hold a right of first refusal. Within 120 days after the expiration of such restrictions, the director of the department of housing and community development, or his or her assignee, shall have an option to purchase any such property at its current appraised value less any outstanding recapture of property tax exemptions pursuant to subsection (v) of this section. The current appraised value shall be determined by two impartial appraisers in accordance with recognized professional standards. Such appraisers shall each be selected by two professionals in the field of multi-unit residential housing. Such professionals shall be designated by the owner of the property and the director respectively. If there exists a difference between

appraisals, the average of the two appraisals shall be used to determine the current appraised value of the property.

Prior to any sale, transfer or other disposition of any such affordable housing created pursuant to this section where the director of the department of housing and community development has not previously exercised an option to purchase, an owner shall not sell, transfer, or otherwise dispose of such property without first offering the director of the department of housing and community development or its assignee, the right of first refusal to purchase the property at its current appraised value less any outstanding recapture of property tax exemptions pursuant to subsection (v) of this section. The owner shall provide to the chief elected official of the city or town in which the property is located, written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The current appraised value shall be determined by two impartial appraisers in accordance with recognized professional standards, Such appraisers shall each be selected by two professionals in the field of multi-unit residential housing. Such professionals shall be designated by the owner and the EACC respectively. If there exists a difference between appraisals, the average of the two appraisals shall be used to determine the current appraised value of the property. The EACC or his or her assignee holds this right of first refusal for the first one hundred and twenty days after receipt of the owner's notice of intent to transfer the property. Failure to respond to the written notice of the owner's intent to sell, transfer or otherwise dispose of the property within one hundred and twenty days after its receipt of such shall constitute a waiver of that right of first refusal by the department. Upon notifying the owner in writing of its intention to pursue its right of first refusal during the one hundred and twenty day period, the director of the department of housing and community development or his or her assignee shall have an additional one hundred and twenty days, beginning on the date of the termination of the first refusal period, to purchase the property. These time periods may be extended by mutual agreement between the director or his or her assignee and the owner of the property. Within a reasonable time after request, the owner shall make available to the department or his or her assignee any information which is reasonably necessary for the department to exercise its rights. The EACC or his or her assignee may purchase or acquire the property only for the purposes of preserving or providing affordable housing, provided, however, that such housing shall remain affordable for forty years after its purchase by the department or for its useful life, whichever is longer.

The owner of property subject to an UCH—TIF plan shall certify to the city or town the income of the families or occupants, upon initial occupancy, of the affordable housing units designated in the UCH—TIF agreement and such information shall be provided to the department on an annual basis. The failure of the owner to provide such information or to comply with the TIF agreement regarding the affordability of housing units assisted under this section or subsection shall result in the recapture of real estate tax exemptions for any such year in which the owner fails to comply with these provisions."; in section 8, by striking out lines 9 to 13, inclusive, and inserting in place thereof the following: "mentally retarded; low or moderate income housing shall include any accessory apartment constructed on or after July l, 2002, located in a city or town pursuant to a city or town's local ordinance or zoning by-law that is affordable to the occupant of such accessory apartment. For purposes of this section, the director of the department of housing and community development shall promulgate a standard definition of accessory apartments in order to be counted as low or moderate income units. Each city or town

shall annually certify the affordability of each such accessory apartment to the department of housing and community development.”; by inserting after section 15 the following new section:

“SECTION 15A. Paragraph (e) of section 3 of said chapter 40H is hereby amended by striking out the first sentence thereof and inserting in place thereof the following:— The Board shall hire an executive director and shall establish his or her salary.”; by striking section 18 and inserting in place thereof the following new section:—

“SECTION 18. The General Laws, as appearing in the 2000 Official Edition, are hereby amended by inserting after chapter 40P the following new chapter:—

CHAPTER 40Q.

URBAN HOUSING CENTER ZONE IMPROVEMENT FUND.

Section 1. Definitions:

As used in this chapter unless the context clearly requires otherwise, the following terms shall have the following meanings:—

‘Urban center housing zones’, an area defined under section 60(a) of chapter 40 of the General Laws and which has been designated under section 2 of this chapter, and which is to be developed by the city or town under a development program;

‘Base Date’, the last assessment date of the real property tax immediately preceding the creation of the district.

‘Captured assessed value’, the valuation amount by which the current assessed value of a tax increment financing district exceeds the assessed value of the district as of the base date. If the current assessed value is equal to or less than the original there is no captured assessed value.

‘Development program’, a statement of means and objectives designed to improve the residential housing, the quality of life, the physical facilities and structures and the quality of pedestrian and vehicular traffic control and transportation and to provide for affordable housing within the urban center housing zone as defined in section 60 of chapter 40. The statement must include:

(1) a financial plan;

(2) a complete list of public facilities to be constructed;

(3) the use of private property within the urban center housing zone;

(4) the provision of affordable housing within the urban center housing zone;

(5) plans for the relocation of persons displaced by the development activities;

(6) the proposed regulations and facilities to improve transportation;

(7) the proposed operation of the district after the planned capital improvements are completed; and

(8) the duration of the program which cannot exceed 30 years from the date of designation of the urban housing center zone.

‘Financial plan’, a statement of the costs and sources of revenue required to accomplish the development programs which must include: (1) cost estimates for the development program, (2) the amount of indebtedness to be incurred and (3) sources of anticipated capital.

‘Original assessed value’, the aggregate assessed value of the district as of the base date. The original assessed value shall be increased or decreased annually as a result of a change in the tax exempt status of property within the tax increment financing district.

‘Project’, a project to be undertaken in accordance with the development program.

‘Project costs’, any expenditure made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city or town which are listed in a project plan as costs of improvements including, but not limited to, public works, acquisition, construction or rehabilitation of land or improvements for sale or lease to residential development for predominantly multi-unit residential housing which may include improvements for commercial, business and retail uses plus any costs incidental to those improvements within an urban center housing zone, reduced by any income, special assessments or other revenues, other than tax increments, received or reasonably expected to be received by the city or town in connection with the implementation of this plan and other costs as included in regulations and guidelines promulgated by the department of housing and community development.

‘Project revenues’, any receipts of a city or town with respect to a project, including, without limitation, tax increments, investment earnings and proceeds of insurance or disposition of property.

‘Tax increment’, that portion of all real and personal property taxes assessed by a city or town, upon the captured assessed value of property within a tax increment financing district. The portion of the tax levy attributable to the increased valuation after the base date shall be calculated using the same classification factors as were used as of the base date, or without classification factors, if property was not classified for tax purposes as of the base date. If the base date is earlier than the date as of which the commissioner of revenue makes the certification required by subsection (c) of section 2A of chapter 59, the project plan may provide for such further adjustment in calculating the tax increment as may be deemed appropriate to reflect changes of practice after the base date with respect to the valuation of property in order to achieve assessment at full and fair cash valuation.

‘Tax increment financing district’, a district or portion of a district within the corporate limits of a city or town which uses tax increment financing under section three of this chapter or under section 59 of chapter 40 of the general laws.

‘Tax increment financing district development program’, in addition to the information required for a development program, as defined above, the statement must also include:

(1) estimates of the captured assessed value of the district; (2) a projection of the tax revenues to be derived from the tax increment district in the absence of a development program; (3) the method of calculating the tax increment together with any provisions for adjustment of the method of calculation; (4) the board or officer of the city or town responsible for calculating the tax increment; (5) a statement as to whether the issuance of any bonds contemplated under this chapter will be general or special obligation bonds; (6) the portion of the captured assessed value to be applied to the development program and resulting tax increments in each year of the program; and (7) a statement of the estimated impact of tax increment financing on all taxing jurisdictions in which the district is located.

Section 2. Urban center housing zones; development programs and powers.

(a) Any city or town by vote of its town meeting, town council or city council with the approval of the mayor where required by law may designate urban center housing zones as defined under section 60 of chapter 40 of the General Laws, within the corporate limits of the city or town, provided further, that the urban center housing zone has been approved by the EACC pursuant to section 60 of chapter 40 of the General Laws and regulations promulgated by the director of the department of housing and community development. The EACC shall find, based on the information submitted to it in support of the designation of the urban center housing zone by the city or town and such additional investigation as the director shall make, that the designation of the urban center housing zone is consistent with the requirements of this section and will further the public purpose of encouraging increased multi-unit housing and affordable housing in this commonwealth.

(b) Program. The city or town shall adopt a development program for each urban center housing zone. The program shall be adopted at the same time as the district, as part of the district adoption proceedings, or if at a different time, in the same manner as adoption of the district, with the same certification requirements of subsection (a). Once approved, the program may be altered or amended only after meeting requirements for adoption under this subsection.

(c) Powers. Within an urban center housing zone, and consistent with the development program, the city or town may acquire, construct, reconstruct, improve, preserve, alter, extend, operate, maintain or promote development intended to meet the objectives of the development program. In addition to powers granted by any other law, for the purpose of carrying on a project as authorized by this chapter, a city or town shall have the following powers:

(1) to incur indebtedness as hereinafter provided and to pledge tax increments and other project revenues for repayment thereof;

(2) to create a department, designate an existing department, board officer, agency, municipal housing or redevelopment authority of the city or town or enter into a contractual agreement with a private entity to administer the activities authorized by this chapter;

(3) to make and enter into all contracts and agreements necessary in order to carry out the

development program;

(4) to receive from the federal government or the commonwealth loans or grants for, or in aid of, a project and to receive contributions from any other source to defray project costs;

(5) to purchase or acquire by eminent domain pursuant to the provisions of chapter 79 or chapter 80A of the General Laws, insofar as such provisions may be applicable, and pursuant to all preliminary requirements prescribed by law, such property or interests therein within a district as the city or town may deem necessary in order to carry out the development program; provided, however, that any taking of property by eminent domain for any purpose for which the taking by the city or town could not be made in the absence of this chapter shall be authorized by a two-thirds vote as defined in section 1 of chapter 44;

(6) to make relocation payments to such residential occupants pursuant to chapter 79A of the general laws, insofar as such provisions may be applicable, businesses or organizations as may be displaced as a result of carrying out the development program;

(7) to clear and improve property acquired by it pursuant to the development program and construct, rehabilitate or develop multi-unit housing, affordable housing, public facilities thereon, or contract for the construction development, redevelopment, rehabilitation, remodeling, alteration or repair of such property;

(8) to cause parks, playgrounds, or schools, or water or sewer drainage facilities or any other public improvements which it is otherwise authorized to undertake, to be laid out, constructed or furnished in connection with the development program;

(9) to lay out, construct, alter, relocate, change the grade of, make specific repairs upon or discontinue public ways and sidewalks in or adjacent to the urban center housing zone;

(10) to cause private ways, sidewalks, ways for vehicular travel, and similar improvements to be constructed within the urban center housing zone for the particular use of the urban center housing zone or those dwelling or working therein;

(11) to adopt ordinances or by-laws under section 5 of chapter 40A, or repeal or modify such ordinances or by-laws, or establish exceptions to existing ordinances and by-laws regulating the design, construction and use of buildings;

(12) to sell, mortgage, lease as lessor, transfer or dispose of any property or interest therein acquired by it pursuant to the project plan for development, redevelopment or rehabilitation in accordance with the development program;

(13) to invest project revenue as hereinafter provided; and

(14) to do all things reasonably necessary or convenient to carry out the powers granted in this chapter.

Section 3. Urban housing center zone improvement financing.

(a) Captured assessed value. The city or town may retain all or part of the tax increment of a tax increment financing district for the purpose of financing the development program. The amount of tax increment to be retained is determined by designating the amount of captured assessed value to be retained. When a development program for an urban housing center zone within a tax increment financing district is adopted, the city or town shall adopt a statement of the percentage of captured assessed value to be retained in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The assessor shall certify the amount of the captured assessed value to the city or town each year.

(b) Original assessed value. On or after the formation of a tax increment financing district, the assessor of the city or town in which it is located shall, on request of the city or town, certify the original assessed value of the taxable property within the boundaries of the tax increment financing district. Each year, after the formation of a tax increment financing district, the assessor of the city or town shall certify the amount by which the assessed value has increased or decreased from the original value.

(c) Development program fund; tax increment revenues. If a city or town has elected to retain all or a percentage of the retained captured assessed value under subsection (a), the city or town shall:

(1) establish a development program fund that consists of: (i) a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidence of indebtedness that were issued to fund or refund the costs of the development program fund and (ii) a project costs account that is pledged to and charged with the payment of project costs as outlined in the financial plan and are paid in a manner other than as described in subparagraph (i).

(2) annually set aside all tax increment revenues on retained captured assessed values and deposit all such revenues to the appropriate development program fund account in the following priority:

(A) to the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under Section 4 of this chapter and the financial plan; and

(B) to the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

(3) be permitted to make transfers between development program fund accounts as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

(4) annually return to the general fund of the city or town any tax increment revenue in excess

of those estimated to be required to satisfy the obligations of the development sinking fund account.

Section 4. Financing.

(a) A city or town may, by majority vote as defined in section 1 of chapter 44, authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, to finance all project costs needed to carry out the development program within an urban center housing zone. Without limiting the generality of the foregoing, such bonds may be issued for the payment of project costs which may include interest prior to and during the carrying out of a project, and, for a reasonable time thereafter, such reserves as may be required by any agreement securing the bonds and all other expenses incidental to planning, carrying out and financing the project.

(b) The bonds of each issue shall be dated and may be made redeemable before maturity with or without premium. Subject to the authorizing vote, the officers authorized to sell the bonds shall determine: the date or dates of the bonds provided that the bonds shall mature within twenty years from their respective dates; their denomination or denominations; the place or places of payment of the principal and interest, which may be at any bank or trust company within or without the commonwealth; their interest rate or rates; maturity or maturities; redemption privileges, if any; and the form and other details of the bonds. Notwithstanding any provisions of a municipal charter or general or special law to the contrary, bonds issued hereunder may provide for annual or more frequent installments of principal in equal, diminishing or increasing amounts with the first installment of principal to be due at any time within five years from the date of the issuance of the bonds, and subject to the authorizing vote, may provide for such rate or rates of interest as the officers authorized to sell the bonds shall deem proper, including rates variable from time to time as determined by such index, banker's loan rate or other method as may be specified in such bond. The bond shall be signed by the mayor or city manager as the case may be of a city or by a majority of the selectmen of a town council form of government either manually or by facsimile thereof. Any coupons attached thereto shall bear the facsimile signature of the city or town treasurer.

(c) In case of any officer whose signature, or a facsimile of whose signature, shall appear on any bonds, coupons, or notes issued under this chapter shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) The bonds shall be issued in registered form. Subject to the authorizing vote, the officers authorized to sell the bonds may sell the bonds in such manner, either at public or private sale, and for such price, as they may determine will best effect the purposes of this chapter.

(e) Prior to the preparation of definitive bonds, the city or town may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Provisions may be made for the placement of any bonds which shall have become mutilated or shall have been destroyed or lost.

(f) Bonds or notes issued hereunder may be secured in whole or in part by letters or lines of

credit or other credit facilities. Any such insurance letter or line of credit or credit facility may provide for reimbursement to be made over such period of time, not to exceed two years beyond the maturity date of the bonds or notes so secured.

(g) In the discretion of the officers authorized to sell the bonds, but subject to the provisions of the vote authorizing the bonds, bonds issued hereunder may be secured by one or more trust agreements between the city or town and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth. A trust agreement hereunder shall be in such form and executed in such manner as may be determined by such offers. A trust agreement may pledge or assign project revenue, in whole or in part, and may provide that the owner or holder of bonds issued thereunder may have a lien or mortgage on any facility acquired, improved or constructed with the proceeds of the tax increment bonds, may contain such provisions for protecting and enforcing their rights, security and remedies of the bondholders as may be reasonable and proper and not in violation of the law including, without limiting the generality of the foregoing: provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth duties of, and limitations on, the city or town in relation to carrying out and otherwise administering the project or projects; the custody, safeguarding, investment and application of project revenues; the issuance of additional bonds hereunder; the determination of tax increments; the fixing of fees and charges, if any, in relation to the project or projects; the collection of such project revenues; the use of any surplus bond proceeds; the establishment of reserves; and the replacement of bonds or coupons which shall become mutilated or be destroyed or lost. Subject to the provisions of this chapter, moneys subject to the trust agreement shall be held, invested, and applied as provided therein, provided that moneys not deposited in trust with a corporate trustee shall be in the custody of the city or town treasurer.

(h) It shall be lawful for any bank or trust company to act as a depository or trustee of proceeds of bonds or of other monies under any such trust agreement and to furnish such indemnifying bonds or to pledge such securities as may be required by the trust agreement. Any such trust agreement or resolution may set the rights and remedies of the bondholders and of the trustees and may restrict the individual right of action by a bondholder. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as operating expenses.

(i) Notwithstanding the provisions of chapter 106 or any other general or special law to the contrary: (i) any pledge hereunder shall be valid and binding and shall be deemed continuously perfected from the time it is made; (ii) no filing need be made under the said chapter 106 or otherwise; (iii) unless otherwise provided in the financing instruments, a pledge or project revenues shall be deemed to include a pledge of any accounts or general intangibles from which such revenues are derived, whether existing at the time of the pledge or thereafter acquired by the city or town and the proceeds of such accounts or general intangibles; and (iv) the pledged project revenues accounts and general intangibles shall be subject to the lien of the pledge without delivery or segregating and the lien of the pledge shall be valid and binding against all parties having claims of contract or tort or otherwise against the city or town.

(j) A pledge of project revenues under this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation and such revenues may be applied as

required by the pledge without further appropriation.

Notwithstanding the provisions of this subparagraph, administrative expenses shall be subject to appropriation.

(k) In anticipation of the issuance of bonds under this chapter, and subject to any provisions of the vote authorizing the bonds, the officers authorized to sell bonds may without further authorization issue temporary notes. The notes may be secured as in the case of bonds, and except as otherwise provided in this subparagraph, the provisions of subparagraphs (i), (k), (1) and (n) referring to bonds shall also be deemed to refer to the notes. The notes need not bear the seal of the city or town or a facsimile thereof. The notes shall be payable within two years from their respective dates, but the principal of and interest on notes issued for a short period may be refunded from time to time by the issuance of other notes maturing within two years from the original date of issuance of the indebtedness being refunded.

(1) A city or town may, when authorized by a majority vote as defined in section 1 of chapter 44, issue refunding bonds for the purpose of paying any of its bonds issued hereunder at maturity or upon acceleration of redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the city or town deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expense of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other purposes from the proceeds of such refunding bonds as may be required by any agreement securing the bonds. The issuance of refunding bonds, the maturities and other details thereof, the security thereof, the rights of holders thereof, and the rights, duties and obligations of the city or town with respect thereto shall be governed by the provisions of this chapter relating to the issuance of bonds other than refunding bonds insofar as the same may be applicable.

(m) The bonds and notes issued under this chapter shall not at any time be included in the debt of the city or town for the purpose of ascertaining its legal borrowing capacity, nor shall the tax increment be included in calculating total tax assessed in paragraph (a) of section 21C of chapter 59 or the maximum levy limit in paragraph (f) of section 21C of chapter 59. Except as otherwise provided herein, such bonds and notes shall not be subject to the provisions of chapter 44.

(n) Subject to any agreement securing bonds or notes issued under this chapter, the proceeds of such bonds or notes pledged for tax increments and other project revenues may be deposited or invested in such investments as may be lawful for fiduciaries in the commonwealth.

(o) All project revenues received pursuant to the provisions of this chapter shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

(p) Any holder of bonds or notes issued under this chapter, or of any of the coupons appertaining thereto, and the trustee under any trust agreement securing the same except to the extent the rights herein given may be restricted by any agreement securing the same, may bring

suit upon the bonds, notes or coupons and may, either at law or in equity, by suit, action mandamus or other proceedings, protect and enforce all rights under the laws of the commonwealth or granted under this chapter or under any such agreement, and may enforce or comply to the performance of aJl duties required by this chapter or by such agreement to be performed by the city or town or by any officer thereof.

(q) Bonds and notes issued under the provisions of this chapter are hereby made securities in which all insurance companies, trust companies, banking associations, savings banks, cooperative banks, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are or may hereafter be authorized to invest in bonds or notes or other obligations of a similar nature may properly and legally invest funds, including capital deposits or other funds in their control and belonging to them. Such debt obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal office or any agency or political subdivision of the commonwealth for any purpose for which the deposits of bonds or other obligations of the commonwealth now or may hereafter by authorized by law.

(r) Notwithstanding any of the provisions of this chapter or any recitals in any bonds or notes issued under this chapter, all such bonds and notes shall be deemed to be investment securities under chapter 106.

(s) The bonds and notes issued under this chapter, their transfer and the income therefrom, including any profits made on the sale thereof, shall be at all times free from taxation within the commonwealth.”; in section 28, (inserted by the committee on Bills in the Third Reading) by adding the following sentence: No application for a comprehensive permit which is presently pending before a board of appeals shall be denied because a municipality has more than 10 percent of its housing units classified as low or moderate income housing as a result of counting housing units as low or moderate income housing pursuant to this act.”; and by adding at the end thereof the following two sections:

“SECTION34. Section 32 of chapter 121B of the General Laws is hereby amended by deleting the second paragraph.

SECTION 35. Resolved, there is hereby established a special commission to study the future of the state developmental centers for individuals with mental retardation.

Said commission shall consist of the governor or his/her designee; the secretary of the executive office of health and human services or his/her designee; the commissioner of the department of mental retardation or his/her designee; the commissioner of the division of capital asset management and maintenance or his/her designee; four members of the house of representatives to be appointed by the speaker of the house; four members of the senate to be appointed by the president of the senate.

Such study shall address, but not be limited to, the following topics; determine the projected future need for fixed bed capacity at the developmental centers; the projected number of campuses needed to maintain said capacity; re-opening of admissions; to whom said admissions would be made available; and the operating costs of facility-based care, including projected

staffing and capital needs.

Said commission shall submit a report of their findings to the house committee on ways and means, the senate committee on ways and means, the joint committee on human services and elderly affairs, the house clerk and the senate clerk no later than July 1, 2002.".

The amendments were adopted.

Mr. Linsky of Natick then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 36. Section 38 of Chapter 59 of the General Laws, as appearing in the 2000 edition, is hereby amended by deleting the section in its entirety and replaced it with the following:—

Section 38. The assessors of each city and town shall at the time appointed therefore make a fair cash valuations of all the estate, real, and personal, subject to taxation therein, and such determination shall be the assessed valuation of such estate. In determining the fair cash valuation, the asessors shall consider any restrictions to the use of the property which have been recorded with the deed to the property, including, but not limited to, any restriction to maintaining the property as affordable housing. In cities, the assessors may, in any year, divide the city into convenient assessment districts. The assessed valuation of real property subject to taxation under this chapter shall be classified as follows:

Class one, residential;
Class two, open
Class three, commercial, and
Class four, industrial

The resulting amount shall be the taxable valuation of each class of property to which the assessors shall apply the tax rates applicable to each class as determined under section twenty-three A of chapter fifty-nine of the city or town, to determine the tax due and payable on such property.". The amendment was adopted.

Mr. Toomey of Cambridge then moved that the bill be amended in section 5, line 135, by striking out the words "date of the conclusion" and inserting in place thereof the words "effective date"; and in line 144 by striking out the words "date of conclusion" and inserting in place thereof the words "effective date". The amendments were adopted.

Mr. Marini of Hanson and other members of the House then moved that the bill be amended by striking out Section 20 and inserting in place thereof the following section:

"SECTION 20. Section 11 of Chapter 186, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word 'tenant', in line 3, the following words:— on a standard form prepared by the trial court and by adding the following sentence:— All notice to quit forms shall include a fact sheet setting forth the respective legal rights of landlords and tenants as they currently exist under the General Laws. Said fact sheet shall be developed by the department of housing and community development in English and other languages and shall include, but not be limited to, the names and telephone numbers to the 9 Housing Consumer

Education Centers and information regarding the Department of Transitional Assistance Emergency Assistance Rent Arrearage Program. Said fact sheet shall be held at all courts that currently have jurisdiction over eviction proceedings under the General Laws.”; by striking Section 21 and inserting in place thereof the following section:

“SECTION 21. Section 12 of said chapter 186, as so appearing, is hereby amended by inserting after the word ‘tenant’, in line 11, the following words:— on a standard form prepared by the trial court and by adding the following sentence:— All notice to quit forms shall include a fact sheet setting forth the respective legal rights of landlords and tenants as they currently exist under the General Laws. Said fact sheet shall be developed by the Department of Housing and Community Development in English and other languages and shall include, but not be limited to, the names and telephone numbers to the 9 Housing Consumer Education Centers and information regarding the Department of Transitional Assistance Emergency Assistance Rent Arrearage Program. Said fact sheet shall be held and distributed at all courts that currently have jurisdiction over eviction proceedings under the General Laws.”; by striking out Section 23 and inserting in place thereof the following:—

“SECTION 23. Section 8A of Chapter 239 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following:—

In an action of summary process to recover possession of premises occupied for dwelling purposes for non-payment of rent the tenant or occupant shall deposit into an account with the court all rent or use and occupancy that was due on the date of the notice to quit or notice to terminate the tenancy has been deposited into an account with the court, and the tenant or occupant shows proof that all rent or use and occupancy that becomes due after the date of the notice to quit or notice to terminate the tenancy has been similarly deposited with the court prior to hearing on the eviction complaint. Said amount shall not exceed six months of rent prior to the notice to quit. The rent or use and occupancy that is due or that becomes due shall be the previously agreed upon rent rate theretofore payable by the tenant or occupant; provided, however, that in the event that the tenant’s or occupant’s rent is subsidized by any governmental agency or governmentally subsidized program, the tenant’s or occupant’s rent escrowing requirement shall be limited to only that portion of the rent paid by the tenant or occupant; and further provided that the tenant or occupant may deduct any amounts, documented by receipts, that were reasonably spent by the tenant or occupant pursuant to section one hundred and twenty-seven L of chapter one hundred and eleven.

Any amounts so deposited shall be paid over by the clerk of the court in accordance with a written out-of-court agreement between the landlord and the tenant or occupant, or if the parties cannot agree, in accordance with the direction of the court. Pending final resolution of the dispute, if the court so orders, any amounts so deposited and otherwise payable to the landlord shall be paid to the landlord to make repairs to the premises that are required by law or to mitigate financial hardship of the landlord.

In the event that a tenant or occupant has not substantially complied with these provisions there shall be a rebuttable presumption that the landlord is entitled to judgement for non payment of rent and eviction. Nothing in this section shall preclude a tenant from asserting in a separate

action the habitability or safety of rental housing.

At the inception of the tenancy the landlord shall provide to the tenant a written statement as provided for in sections 11 and 12 of chapter 186 of tenant rights and responsibilities, in English and in the tenant's primary language. Such statement shall be promulgated by the Department of Housing and Community Development and made available to landlords. The tenant shall sign a statement that the tenant has received such written statement. If the landlord fails to provide such notice then the provisions of this paragraph shall not apply.".

The amendments were adopted.

The Speaker being in the Chair,— after remarks Mr. DiMasi of Boston moved that the bill be amended in section 7A (inserted by the committee on Bills in the Third Reading), in line 9, by inserting after the word "units" (the first time it appears) the words "in any one year"; and the amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Marini of Hanson; and on the roll call 148 members voted in the affirmative and 2 in the negative.

[See Yea and Nay No. 92 in Supplement.]

Therefore the bill (House, No. 4264, amended) was passed to be engrossed. Mr. Cahill of Beverly moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill then was sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet on Friday next at eleven o'clock A.M.; and when the House adjourns on Friday, it adjourn to meet on Monday next at eleven o'clock A.M.