

The Commonwealth of Massachusetts

JOURNAL OF THE SENATE.



THURSDAY, JUNE 9, 2016.

[52]

JOURNAL OF THE SENATE.

Thursday, June 9, 2016.

Met at nine minutes past eleven o'clock A.M.

The Senator from Essex and Middlesex, Mr. Tarr, led the President, members, guests and staff in the recitation of the pledge of allegiance to the flag.

Pledge of allegiance.

Distinguished Guests.

There being no objection, the President handed the gavel to Mr. Timilty for the purpose of an introduction. Mr. Timilty then introduced, in the rear of the Chamber, the Norton High School Boys Soccer Team. The team was recognized for winning the State Championship Title and finishing their season with a 23-0-1 record. This is the first State Championship in school history. The team was led by Coach Eric Greene and Captains Jon Lach, Danny Pereira and Jared Kahn. The Senate applauded their accomplishments and they withdrew from the Chamber.

Norton High School
Boys Soccer Team.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Ms. Gobi for the purpose of an introduction. Ms. Gobi then introduced, in the rear of the Chamber, the 4th grade class from Brimfield Elementary School. The class was on a field trip to the State House learning about the different aspects of state government. The Senate welcomed them with applause and they withdrew from the Chamber.

Brimfield Elementary
School.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Rush for the purpose of an introduction. Mr. Rush then introduced, in the rear of the Chamber, two dignitaries from County Mayo Ireland. The Mayor of Claremorris, Gerry Murray and Senior Official Michael Sweeney. They were visiting the State House in recognition of Bunker Hill Day and the 100th anniversary of the 1916 Uprising. Mayor Murray and Senior Official Sweeney are working towards beginning a sister city agreement with Charlestown and Boston. The dignitaries approached the Rostrum, signed the guest book and withdrew from the Chamber. They were also guests of Senator DiDomenico and Representative Ryan of Boston.

Gerry Murray and
Michael Sweeney.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Rodrigues for the purpose of an introduction. Mr. Rodrigues then introduced, in the rear of the Chamber, Azorean historian and writer José de Almeida Mello. Dr. Mello was the Cultural Director for the city of Ponta Delgada between 2000 and 2009 and currently is the Director and Chief Librarian for the Municipal Library, and Director of the Sahar Hassamaim Synagogue Museum, and Social-Magistrate at the Ponta Delgada Family and Minors Court. He was recognized for carrying out investigations that have led to the recovery of historical artifacts, published articles and books, organized historical archives and led all other efforts that saved the Sahar Hassamaim Synagogue. Dr. Mello ascended the Rostrum for a presentation, signed the guest book and withdrew from the Chamber.

José de Almeida
Mello.

Communications.

The following communications were severally received and placed on file, to wit:

Communication from the Office of the Comptroller (pursuant to Sections 1A and 1B of Chapter 46 of the Acts of 2015) submitting its report on the comparison of actual revenue collections to budget for the third quarter of FY 2016 (received June 6, 2016);

Comptroller,-- non-tax revenue.
SD2581

Communication from the Department of Public Health (pursuant to item 4512-0210 of Section 2 of Chapter 165 of the Acts of 2014, and item 1595-4510 of Section 2E of Chapter 46 of the Acts of 2015) submitting its report on the Substance Abuse Trust Fund for each quarter of FY15 and the first three quarters of FY16 (received June 6, 2016); and

DPH,-- SATF report
FY15 & FY16.
SD2583

Communication from the Office of the Comptroller (pursuant to Section 2E of Chapter 46 of the Acts of 2015) submitting a revised Fiscal Year 2016 transfer schedule for the Executive Office for Health and Human Services (received June 6, 2016).

Comptroller,--
revised transfer
schedule. SD2584

Petition.

Mr. Downing presented a petition (accompanied by bill, Senate, No. 2322) of Benjamin B. Downing and Paul W. Mark (by vote of the town) for legislation to provide for recall elections in the town of Hawley [Local approval received];

Hawley,--
recall elections.

Referred, under Senate Rule 20, to the committee on Election Laws.

Sent to the House for concurrence.

Reports of Committees.

By Mr. Welch, for the committee on Health Care Financing, that the Senate Bill relative to volunteer ambulance service (Senate, No. 2294),-- ought to pass [Estimated cost: less than \$100,000];

Ambulances,--
volunteer services.

Read and, under Senate Rule 26, referred to the committee on Rules.

By Mr. Timilty, for the committee on Public Service, on petition, a Bill authorizing the Town of Windsor to continue the employment of Police Chief Thomas Barnaby (Senate, No. 2281) [Local approval received];

Thomas Barnaby,--
employment.

Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Placed on File.

Mr. Timilty, for the committee on Public Service, on the report of the State Retirement Benefits Board of Trustees (pursuant to Section 24A of Chapter 32A of the General Laws) submitting proposed amendments to the declaration of trust (printed in Senate, No. 9),-- reported recommending that the same be placed on file.

State Retirement
Benefits Board,--
proposed
amendments.

Under Senate Rule 36, the report was considered forthwith and was accepted.

Sent to the House for concurrence.

Committees Discharged.

Mr. Montigny, for the committee on Rules, to whom was referred the Senate

Court judgements,--

Order relative to authorizing the joint committee on the Judiciary to make an investigation and study of certain current Senate documents relative to judicial matters (Senate, No. 2204), reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, Senate No. 1988) of William N. Brownsberger for legislation relative to interest for pecuniary judgements,-- and recommending that the same be referred to the committee on Ways and Means.

Under Senate Rule 36, the report was considered forthwith and accepted.

Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration

Of the Senate Order relative to authorizing the joint committee on Education to make an investigation and study of certain current Senate documents relative to charter schools (Senate, No. 2315);

Of the Senate Order relative to authorizing the joint committee on Elder Affairs to make an investigation and study of certain current Senate documents relative to elder affairs matters (Senate, No. 2316);

Of the Senate Order relative to authorizing the joint committee on Financial Services to make an investigation and study of certain current Senate documents relative to financial services matters (Senate, No. 2318);

Of the Senate Order relative to authorizing the joint committee on Public Service to make an investigation and study of certain current Senate documents relative to public service issues (Senate, No. 2314); and

Of the Senate Order relative to authorizing the joint committee on Transportation to make an investigation and study of certain current Senate documents relative to transportation matters (Senate, No. 2317);

And recommending that the same severally be referred to the committee on Rules;

Under Senate Rule 36, the reports were severally considered forthwith and accepted.

PAPERS FROM THE HOUSE.

Message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to the 2016 special town election in the town of East Longmeadow (House, No. 4382),-- **was referred, in concurrence, to the committee on Election Laws.**

Petitions were severally referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4374) of James Aciero and James B. Eldridge (by vote of the town) that the town of Littleton be authorized to grant one additional license for the sale of all alcoholic beverages not to be drunk on the premises;

To the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 4375) of Mathew Muratore (by vote of the town) that the town of Plymouth be authorized to establish an environmental affairs fund for said town;

Petition (accompanied by bill, House, No. 4378) of Bradley H. Jones, Jr., Bruce E. Tarr and Theodore C. Speliotis (by vote of the town) that the town of Middleton be authorized to establish a reserved fund;

Petition (accompanied by bill, House, No. 4379) of John W. Scibak (by vote of the town) that the town of South Hadley be authorized to convey a certain parcel

interest.

Education
committee,-- study.

Elder Affairs
committee,-- study.

Financial Services
committee,-- study.

Public Service
committee,-- study.

Transportation
committee,-- study.

East Longmeadow,--
special election.

Littleton,--
liquor license.

Plymouth,--
environmental affairs
fund.

Middleton,--
reserve fund.

South Hadley,-- land
conveyance.

of land for other than park purposes; and

Petition (accompanied by bill, House, No. 4380) of Lori A. Ehrlich (by vote of the town) that the town of Marblehead be authorized to establish a historical district commission;

Marblehead,--
historical society.

Severally to the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 4376) of F. Jay Barrows and James E. Timilty (by vote of the town) that the town of Mansfield be authorized to institute appropriate recruitment procedures for police cadets in said town, notwithstanding certain provisions of the civil service law;

Mansfield,-- police
cadets.

To the committee on Public Service.

A Bill authorizing the Commissioner of Capital Asset Management and Maintenance to convey an easement over a certain parcel of land in the town of Dracut (House, No. 4220,-- on petition),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Dracut,-- land.

A Bill relative to special alcohol licenses for nonprofit charitable corporations (House, No. 248, amended),-- **was read and, under Senate Rule 26, referred to the committee on Rules.**

Nonprofits,-- liquor
licenses.

A Bill relative to the creation of a renewable energy fund in the town of Dedham (House, No. 3881,-- on petition) [Local approval received],-- **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Dedham,--
renewable energy.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-

Resolutions (filed by Ms. Chandler and Mr. Moore) “commending William D. Wallace on his 40 years as the Executive Director of the Worcester Historical Museum”;

William D. Wallace.

Resolutions (filed by Ms. Lovely) “congratulating Charles Walsh on his retirement”; and

Charles Walsh.

Resolutions (filed by Mr. Ross) “congratulating Maggie Pickard of the town of Norfolk on receiving the Gold Award of the Girl Scouts of America.”

Maggie Pickard.

PAPER FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill designating a certain bridge in the town of Harwich as the United States Navy Lieutenant Junior Grade Ralph Wallace Burns Memorial Bridge (see House, No. 3801, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 6 to 0.

Harwich,--
bridge designation.

The bill was signed by the President and sent to the House for enactment.

Communication.

The Clerk read the following communication:

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE

Senator Barbara A.
L'Italien,-- absence
from Chamber.

William Welch, *Senate Clerk*
State House, Room 335
Boston, MA 02119

June 7, 2016

Dear Senate Clerk,

Due to my attendance at a family funeral out of state on May 26, 2016, I was not present to vote during the second half of senate session. Had I been present, I would have voted the following ways on the following roll calls:

1. Roll Call #341 on DeMacedo Amendment #312: Had I been present, I would have voted YES
2. Roll Call #342 on Lesser Amendment #315: Had I been present, I would have voted YES
3. Roll Call #343 on Gobi Amendment #427: Had I been present, I would have voted YES
4. Roll Call #344 on Ross Amendment #564: Had I been present, I would have voted YES
5. Roll Call #345 on Montigny Amendment #631: Had I been present, I would have voted YES
6. Roll Call #346 on Eldridge Amendment #706: Had I been present, I would have voted YES
7. Roll Call #347 on Lovely Amendment #767: Had I been present, I would have voted YES
8. Roll Call #348 on Downing Amendment #973: Had I been present, I would have voted YES
9. Roll Call #349 on Creem Amendment #1000: Had I been present, I would have voted YES
10. Roll Call #350 on Moore Amendment #1021: Had I been present, I would have voted YES
11. Roll Call #351 on Tarr Amendment #1098: Had I been present, I would have voted YES
12. Roll Call #352 on Tarr Amendment #164: Had I been present, I would have voted YES
13. Roll Call #353 on Wolf Amendment #429: Had I been present, I would have voted YES
14. Roll Call #354 on Montigny Amendment #19: Had I been present, I would have voted YES
15. Roll Call #355 on Tarr Amendment #1098: Had I been present, I would have voted YES
16. Roll Call #356 on Engrossment of H4201: Had I been present, I would have voted YES

I request that this be printed with the Senate Journal. Please do not hesitate to contact me if you have any questions about this or need any clarification about these votes.

Sincerely,
BARBARA L'ITALIEN
State Senator

Second Essex and Middlesex District

On motion of Ms. Lovely, the above communication was ordered printed in the Journal of the Senate.

Ordered printed.

Reports of a Committee.

By Ms. Spilka, for the committee on Ways and Means, on petition, a Bill increasing the property tax deferral for seniors (Senate, No. 1494);

Seniors,-- property tax deferral.

Read and, under Senate Rule 26, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee on Rules, reported that the bill be placed in the Orders of the Day for immediate consideration on Thursday, June 16, 2016.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill creating a maximum allowable check-cashing rate (Senate, No. 152),-- ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2323).

Check-cashing,-- maximum rate.

Order Adopted.

Ms. Spilka offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill creating a maximum allowable check-cashing rate (Senate, No. 152) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft, Senate, No. 2323) shall be placed in the Orders of the Day for a second reading on Thursday, June 16, 2016.

Procedural order.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, June 13, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new draft (Senate, No. 2323), but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Boncore, and the order was considered forthwith and adopted.

The bill will be placed in the Orders of the Day for Thursday, June 16, for a second reading, with the amendment pending.

Report of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill relative to housing operations, military service, and enrichment (House, No. 4285),-- ought to pass, with an amendment striking out all after the enacting clause

HOMES bill.

and inserting in place thereof the text of Senate document numbered 2325 [Estimated cost: \$1,000,000.00].

Order Adopted.

Ms. Spilka offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the House Bill relative to housing, operations, military service, and enrichment (House, No. 4285) (the committee on Ways and Means having recommended that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2325) shall be placed in the Orders of the Day for a second reading on Thursday, June 16, 2016.

Procedural order.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, June 13, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new text (Senate, No. 2325), but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Ms. O'Connor Ives, and the order was considered forthwith and adopted.

The bill will be placed in the Orders of the Day for Thursday, June 16, for a second reading, with the amendment pending.

Report of Committees.

By Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Mark C. Montigny for legislation to stop human trafficking and enhance the lives of survivors.

Human trafficking.
SD2574

The rules were suspended, on motion of Mr. Wolf, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

The following House Orders (severally approved by the committees on Rules of the two branches, acting concurrently) were considered as follows:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Financial Services be granted until Wednesday, July 6, 2016, within which time to make its final report on current Senate documents numbered 483, 485, and 551, and House documents numbered 792, 800, 843, 866, 879, 891, 920, 925, 926, 948, 958, and 3488.

Financial Services,--
extension order.

The rules were suspended, on motion of Mr. Montigny, and the order (House, No. 4309) was considered forthwith; and adopted, in concurrence.

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on State Administration and Regulatory Oversight be granted until Friday, June 10, 2016, within which time to make its final report on current House documents numbered 4130 and 4151.

State Administration
and Regulatory
Oversight,--
extension order.

The rules were suspended, on motion of Mr. Pacheco, and the order (House, No. 4342) was considered forthwith; and adopted, in concurrence.

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4386) of John DiPaolo for legislation to establish a sick leave bank for John DiPaolo, an employee of the Middlesex County Sheriff's Office;

John DiPaolo,--
sick leave.

Under suspension of Joint Rule 12, to the committee on Public Service.

Petition (accompanied by bill, House, No. 4387) of Garrett J. Bradley relative to relief from joint and several liabilities on joint tax returns;

Joint tax returns.

Under suspension of Joint Rule 12, to the committee on Revenue.

Petition (accompanied by bill, House, No. 4388) of David K. Muradian, Jr. and Michael O. Moore that the commissioner of Capital Asset Management and Maintenance be authorized to grant certain easements in the town of Grafton to the New England Power Company;

Grafton,--
easements.

Petition (accompanied by bill, House, No. 4389) of Ronald Mariano and James M. Murphy that the Massachusetts Department of Transportation be authorized to acquire certain parcels of land in the town of Weymouth; and

Weymouth,--
land transfer.

Petition (accompanied by bill, House, No. 4390) of Peter V. Kocot that the commissioner of Capital Asset Management and Maintenance be authorized to convey certain parcels of land in the city of Northampton to said city for affordable housing purposes;

Northampton,--
affordable housing.

Severally, under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

Engrossed Bills.

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Designating a certain bridge in the town of Harwich as the United States Navy Lieutenant Junior Grade Ralph Wallace Burns Memorial Bridge (see House, No. 3801, changed and amended);

Bills laid before
the Governor.

Relative to the membership of the South Essex Sewerage District Board (see House, No. 4007); and

Establishing a sick leave bank for Laurie Godwin, an employee of the Department of Youth Services (see House, No. 4189).

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Authorizing the town of Pelham to continue the employment of Raymond A. Murphy, Jr. as fire chief (House, No. 3575, amended); and

Second reading bills.

Relative to the board of selectmen-town manager form of government in the town of Framingham (House, No. 3977, amended).

Were severally read a second time and ordered to a third reading.

There being no objection, the following matter was taken out of order from the Orders of the Day:

The Senate Bill promoting the planning and development of sustainable communities (Senate, No. 2144),-- was read a second time.

Zoning reform.

After remarks, and pending the main question on ordering the bill to a third reading, Mr. Tarr moved that the bill be recommitted to the committee on Ways and Means.

Recess.

At twenty-three minutes past twelve o'clock noon, at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at a quarter before one o'clock P.M., the Senate reassembled, the President in the Chair.

Recess.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill promoting the planning and development of sustainable communities (Senate, No. 2144),-- was further considered, the main question being on ordering the bill to a third reading.

Zoning reform.

After debate, the pending question on recommitting the bill to the committee on Ways and Means was determined by a call of the yeas and nays at fourteen minutes before one o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 11 – nays 27) [**Yeas and Nays No. 357**]:

YEAS.

deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Humason, Donald F., Jr.
Lewis, Jason M.

Lovely, Joan B.
Moore, Michael O.
OConnor, Patrick M.
Ross, Richard J.
Tarr, Bruce E. – **11.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena
Gobi, Anne M.
Jehlen, Patricia D.

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
L'Italien, Barbara A.
Montigny, Mark C.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Rush, Michael F.
Spilka, Karen E.
Timilty, James E.
Welch, James T.
Wolf, Daniel A. – **27.**

ABSENT OR NOT VOTING.

McGee, Thomas M. – **1.**

The yeas and nays having been completed at nine minutes before one o'clock P.M., the motion to recommit was *rejected*.

After remarks, and pending the main question on ordering the bill to a third reading, and pending the amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2311), Ms. Donoghue moved that the proposed new draft be amended in section 21, in proposed section 9F of chapter 40A, by inserting the following subsection:-

"(g) The ordinance or by-law shall apply only to developments containing 12 or more housing units."

The amendment was *rejected*.

Ms. Donoghue moved that the proposed new draft be amended in section 6, in lines 187-188, by striking out the words "at least 1 district of reasonable size" and inserting in place thereof the following:- "1 or more zoning districts that together cover not less than 1.5 percent of the developable land area in a municipality"; and in said section 6, by striking out lines 204-205 and inserting in place thereof the following:- "The department may waive or modify the requirements of this subsection for rural municipalities or if a determination is made that less than 1.5 percent of the developable land in a municipality is in an eligible location."

The amendment was *rejected*.

Ms. Donoghue and Mr. Tarr moved that the proposed new draft be amended in section 22, in proposed section 10 of chapter 40A, by striking out the third paragraph; and in said section 22, in said proposed section 10 of said chapter 40A, by striking out fifth paragraph and inserting in place thereof the following paragraph:-

"The permit-granting authority may impose conditions, safeguards and limitations on the time and use of a variance, including on the continued existence of particular structures; provided, however, that the permit-granting authority shall not impose conditions, safeguards or limitations based on the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or an owner."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at six minutes before one o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 38 – nays 0) **[Yeas and Nays No. 358]:**

YEAS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
deMacedo, Viriato M.
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Fattman, Ryan C.
Flanagan, Jennifer L.

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
Montigny, Mark C.
Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.

Forry, Linda Dorcena
Gobi, Anne M.
Humason, Donald F., Jr.
Jehlen, Patricia D.

Tarr, Bruce E.
Timilty, James E.
Welch, James T.
Wolf, Daniel A. – 38.

NAYS – 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. – 1.

The yeas and nays having been completed at three minutes before one o'clock P.M., the amendment was adopted.

Messrs. Moore and Timilty moved that the proposed new draft be amended by inserting after section __, the following section:-

"SECTION _____. Notwithstanding any general or special law to the contrary, there shall be a special commission to study the use and effectiveness of the zoning approval process of educational uses under the so-called dover amendment, section 3 of chapter 40A of the General Laws.

The commission shall consist of the secretary of housing and economic development or a designee; the secretary of the executive office of education or a designee; 2 members appointed by the president of the senate, including the senate chair of the joint committee on municipalities and regional government and the senate chair of the joint committee on housing; 1 member appointed by the senate minority leader; 2 members appointed by the speaker of the house of representatives, including the house chair of the joint committee on municipalities and regional government and the house chair of the joint committee on housing; 1 member appointed by the house minority leader, and 5 members to be appointed by the governor, 1 of whom shall be a local official with expertise in zoning; 1 of whom shall be a member of a non-profit social services agency; 1 of whom shall be a member of a non-profit school or higher education institution; 1 of whom shall be a member of an independent non-profit primary or secondary school; and 1 of whom shall be a member of an association that represents community-based early education programs.

The commission shall study the impact of the education exemption provided by the dover amendment on municipalities and nonprofit education institutions, which shall include a review of the types of building projects sited under the protection of the dover amendment and the case law decided on the educational exemption. The commission shall solicit public testimony, either by holding public hearings or through surveys.

The commission shall file the results of its study together with recommendations for legislation, which shall include a proposed definition of 'educational purposes', with the clerks of the house of representatives and senate, on or before June 30, 2017."

The amendment was adopted.

Messrs. Humason and Ross moved that the proposed new draft be amended in section 2, by striking out subsection (f).

The amendment was *rejected*.

Ms. Chang-Diaz moved that the proposed new draft be amended by inserting after section 44 the following new section:-

"SECTION XX. Section 4 of chapter 151B of the General Laws shall be amended by adding after paragraph 19(a) the following paragraph:-

'20. For a local or state administrative, legislative or regulatory body or instrumentality to engage in discriminatory land use practices. As used in this subsection, "discriminatory land use practices" shall mean to enact or enforce any

9.

10.

11.

land use regulation, policy or ordinance, or to make a permitting or funding decision with respect to housing or proposed housing, or to take other actions the purpose or effect of which would limit or exclude (a) housing accommodations for families or individuals with incomes at or below 80% of the area median income, as defined by the U.S. Department of Housing and Urban Development; (b) housing accommodations with sufficient bedrooms for families with children; or (c) families or individuals based on race, color, religious creed, national origin, sex, gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age, genetic information, ancestry, marital status, veteran status or membership in the armed forces, blindness, hearing impairment, or because such person possesses a trained dog guide as a consequence of blindness or hearing impairment or other handicap of such person or persons, disability condition, or familial status.

It shall not be a violation of this chapter if a local government entity whose action or inaction has an unintended discriminatory effect proves that the action or inaction was motivated and justified by a substantial, legitimate, non-discriminatory bona fide governmental interest, and the complaining party cannot prove that those interests can be served by another practice that has a less discriminatory effect.'."

The amendment was adopted.

Mr. Barrett moved that the proposed new draft be amended in section 2, by inserting in lines 17 and 68, after the word "conservation," each time it appears, the following words:- "greenhouse gas emissions reductions,"; and in said section 2, by striking out in lines 32 to 37, inclusive, the words: "(vi) development agreement contracts between a municipality and a holder of development rights to express the conditions to which the development will be subject; (vii) consolidated hearings and permitting for large development projects; and (viii) joint applications from 2 or more contiguous municipalities who together meet the goals of the program and agree to the requirements of clauses (i) to (vii), inclusive." and inserting in place thereof the following words:- "(vi) reductions in greenhouse gas emissions; (vii) development agreement contracts between a municipality and a holder of development rights to express the conditions to which the development will be subject; (viii) consolidated hearings and permitting for large development projects; and (ix) joint applications from 2 or more contiguous municipalities who together meet the goals of the program and agree to the requirements of clauses (i) to (viii), inclusive".

15.

The amendment was adopted.

Mr. Barrett moved that the proposed new draft be amended in section 25, by striking out subclause (iii)(D), beginning in line 655, and inserting in place thereof the following:- "(D) an evaluation of locally feasible land use and development strategies to maximize energy efficiency and renewable energy, support land, energy, water and materials conservation strategies, local clean power generation, distributed generation technologies and innovative industries, and reduce greenhouse gas emissions and the consumption of fossil fuels;"

18.

The amendment was adopted.

Mr. Barrett moved that the proposed new draft be amended in section 25, by adding after the word "walkable," in line 668, the following words:- "cyclable, and conducive to the use of public transportation"; and by striking in line 671 the words:- "encourages the".

19.

The amendment was adopted.

Mr. Barrett moved that the proposed new draft be amended in section 25, by adding after the word “fuel,” in line 709, the following words:- “reduce greenhouse gas emissions”. 20

The amendment was adopted.

Mr. Barrett moved that the proposed new draft be amended in section 25, by striking, in line 728, the word “income”, and inserting in place thereof the following words:- “race, age, socioeconomic status, disability status”. 21

The amendment was adopted.

Mr. Eldridge moved that the proposed new draft be amended in section 2, by striking out, in line 21, the words: "and shall be required to provide certain incentives to benefit persons" and inserting in place thereof the following words:- "after they take actions defined in the program to encourage residential development, commercial or industrial development and the conservation of critical land and resources and, as appropriate, to provide incentives to entities"; in said section 2, by striking out, in lines 30 and 31, the words "for certain zoning districts meeting minimum lot area thresholds for single-family residential development" and inserting in place thereof the following words:- "or cluster development as defined in section 1A of chapter 40A and developed in accordance with paragraph (2) of section 3A of said chapter 40A"; in said section 2, by inserting after the word "the", in line 33, the following words:- "responsibilities of both parties and"; in said section 2, by striking out, in line 37, the words "clauses (i) to (vii) inclusive" and inserting in place thereof the following words:- "the program"; in said section 2, by striking out, in lines 39, 41, 43 and 44, the word "commission" and inserting in place thereof, in each instance, the following word:- "agency"; in said section 2, by striking out, in line 41, the words "and after a public hearing"; in said section 2, by striking out, in line 44, the word "make" and inserting in place thereof the following word:- "recommend"; and in said section 2, in subsection (d) of proposed section 31, by inserting after the first sentence the following sentence:- "At the discretion of the executive office of housing and economic development,"; said section 2 is further amended by striking out, in lines 57 and 58, the words based upon program goals and guidelines in certified communities. Incentives shall benefit both municipal applicants and persons seeking municipal approval for permits and development” and inserting in place thereof the following words:- "to encourage municipal participation in the program"; in said section 2, by inserting after the word “development”, in line 66, the following words:- ", and shall otherwise comply with section 9E"; in said section 2, by striking out, in line 77, the word “the” and inserting in place thereof the following words:- “regulatory or capital spending”; and by inserting after section 36 the following section:- 23

“SECTION 36A. The executive office of housing and economic development shall promulgate regulations necessary and appropriate to implement section 31 of chapter 23B of the General Laws not later than 180 days after the effective date of this act.”

After remarks, the amendment was adopted.

Messrs. Timilty and Ross moved that the proposed new draft be amended by adding the following sections: 24

"SECTION XX. Notwithstanding any general or special law or regulation to the contrary, no public agency, nonprofit organization or limited dividend organization shall be granted a comprehensive permit as provided under sections 20 to 23, inclusive of chapter 40B of the General Laws for a period of 3 years from the effective date of this act.

SECTION XX. There shall be a 9 member special commission for the purpose of investigating the use and effectiveness of the ‘comprehensive permit law’, sections 20 to 23, inclusive of chapter 40B of the General Laws. The commission shall consist of the secretary of administration and finance or his designee; the secretary of housing and economic development or his designee; the secretary of transportation and construction or his designee; 2 members appointed by the president of the senate, including the senate chair of the joint committee on municipalities and regional government, the senate chair of the joint committee on housing; 1 member appointed by the senate minority leader; 2 members appointed by the speaker of the house of representatives, including the house chair of the joint committee on municipalities and regional government, the house chair of the joint committee on housing; and 1 member appointed by the house minority leader.

The commission shall study the effectiveness of the ‘comprehensive permit law’ as a mechanism for promoting the construction of affordable housing units in the Commonwealth and its impact on regional and municipal planning. The commission shall hold 14 public hearings, one in each county in the Commonwealth, to solicit public testimony and evidence of the positive and negative aspects of the ‘comprehensive permit law’. The commission shall issue a report that shall include the history of the “comprehensive permit law; a summary of the testimony presented at the public hearings; and any legislative or regulatory amendments it deems necessary to ensure the ‘comprehensive permit law’ effectively promotes the best interests of the Commonwealth and its municipalities.

The commission shall file its report with the clerk of the senate and the clerk of house of representatives on or before December 31, 2018."

The amendment was *rejected*.

Mr. Eldridge moved that the proposed new draft be amended in section 15, in line 292, by inserting before the words “public hearing” the following:- “first publication of notice of the”; said section 15 is further amended in line 293 by striking out the words “land on the”; and by inserting after section 44 the following new sections:

“SECTION XX. Section 6 of chapter 40A, as so appearing, is hereby amended by striking out the second sentence in the fourth paragraph.

SECTION XX. Section 6 of chapter 40A, as so appearing, is hereby amended by striking out the sixth paragraph.

SECTION XX. Section 6 of chapter 40A, as so appearing, is hereby amended by striking out, in line 98, the words ‘land shown on’.”

The amendment was *rejected*.

Messrs. Tarr and Ross moved that the proposed new draft be amended by inserting, in line 424, after the words “subsection (f)”, the following new words:- “Development impact fees shall not be applied in a manner that would make any project uneconomic as defined in Section 20 of Chapter 40B of the General Laws.”; and by inserting in line 477, after the words, “methodologies for the study”, the following new text:- “The study shall be approved in a town by an affirmative vote of its town meeting or town council, or in a city by an affirmative vote of the city council with the approval of the mayor where required by law. The study shall also be presented to and approved by the Executive Office of Housing and Community Development.”

The amendment was *rejected*.

Messrs. OConnor and Ross moved that the proposed new draft be amended in section 6(b) by striking the words "at least 1 district of reasonable size" and inserting thereof the following:- "one or more districts that together cover no more

than 1.5% of the developable land area in a city or town".

After debate, the amendment was *rejected*.

Mr. OConnor moved that the proposed new draft be amended in section 2, subsection 31(d), by striking the words "10 years" and inserting in place thereof "25 years". 31

The amendment was *rejected*.

Messrs. Tarr and Ross moved that the proposed new draft be amended by striking the language in lines 490 through 525, inclusive, in its entirety. 34

After remarks, the amendment was *rejected*.

Messrs. Tarr and Ross moved that the proposed new draft be amended by inserting at the end thereof the following section:- 35

"SECTION_. Notwithstanding any general or special law to the contrary the executive office of housing and economic development in conjunction with the department of housing and community development shall conduct a study on the impact costs of this act. Said study along with any recommendations shall be submitted to the clerks of the house and senate, the joint committee on housing, the house and senate committee on ways and means no later than 90 days after the passage of this act."

The amendment was *rejected*.

Mr. Tarr moved that the proposed new draft be amended by striking section 2 in its entirety. 36

After remarks, the amendment was *rejected*.

Mr. Downing moved that the proposed new draft be amended in section 34 by striking the two complete sentences in lines 867-874 and substituting the following sentence: "The provisions of this paragraph shall apply only to division lots of no greater than 1.25 times the area and no greater than the lineal frontage specified in the zoning ordinance or bylaw applicable on the date of such withdrawal and only if such a division or cumulative divisions does not reduce the area of the original parcel to less than 90 percent of its size on the date of first application under this paragraph."; and 37

Said section 34 is further amended by striking the definition of "original parcel" in lines 881-884, and the definition of "remainder parcel" in lines 887 and 888.

The amendment was *rejected*.

Mr. Downing moved that the proposed new draft be amended in section 34 by striking the words "2/3 vote, to", in line 830, and inserting thereof:- "simple majority vote". 38

The amendment was adopted.

Mr. Tarr moved that the proposed new draft be amended by inserting in line 588, after the word "land", the following:- "including use variances."; and by striking lines 588 through 590, inclusive, beginning after the word "land" in line 588. 39

The amendment was *rejected*.

Messrs. Tarr and Ross moved that the proposed new draft be amended by striking the sentence, beginning in line 221, and inserting in place thereof the following sentence:- "A municipality shall require an applicant to choose either a yield plan or a yield calculation that deducts for roadways, wetlands and other site constraints in order to determine the yield of housing units in an open space residential development." 40

After remarks, the amendment was *rejected*.

Mr. Tarr moved that the proposed new draft be amended by inserting in section 31 at the end thereof the following:- "inserting in place thereof the following:- the plan or determination can be altered by a 2/3 vote of the planning board". 41

The amendment was *rejected*.

At eighteen minutes past one o'clock P.M., at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at six minutes past two o'clock P.M., the Senate reassembled, the President in the Chair. Recess.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill promoting the planning and development of sustainable communities (Senate, No. 2144),-- was further considered, the main question being on ordering the bill to a third reading. Zoning reform.

At seven minutes past two o'clock P.M., Mr. Tarr doubted the presence of a quorum. The President having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum. Quorum.

Subsequently, at nine minutes past two o'clock P.M., a quorum was declared present.

Ms. Lovely moved that the proposed new draft be amended in section 8, in line 250, by striking out the word "simple" and inserting in place thereof the following:- "2/3"; and in said section 8, in line 252, by striking out the word "simple" and inserting in place thereof the following:- "2/3". 42

The amendment was *rejected*.

Ms. Lovely moved that the proposed new draft be amended in section 17, in line 308, by striking the word "simple" and inserting in place thereof the following:- "2/3". 43

The amendment was *rejected*.

Ms. Creem moved that the proposed new draft be amended by striking section 24 in its entirety. 44

The amendment was *rejected*.

Ms. Lovely moved that the proposed new draft be amended in section 21, line 353, by striking the word "simple" and inserting in place thereof the following:- "2/3". 45

The amendment was *rejected*.

Mr. Tarr moved that the proposed new draft be amended by inserting the following at the end thereof in line 416:- "There shall be zoning freeze protection for site plan approval of a use that is permitted by right." 48

The amendment was *rejected*.

Ms. Lovely moved that the proposed new draft be amended in section 34, in line 834, by striking the word "simple" and inserting in place thereof the following:- "2/3". 51

The amendment was *rejected*.

Messrs. Tarr and Ross moved that the proposed new draft be amended by striking the language in lines 385 through 397, inclusive, in its entirety. 52

After remarks, the amendment was *rejected*.

Ms. Creem moved that the proposed new draft be amended in section 25, by inserting after the words "master plan" in line 682, the following:- "; (vi) a cultural resources element that identifies the significant cultural, scenic and historic 54

structures, sites and landscapes of the municipality, including archaeological resources and policies and strategies to protect and manage the community's cultural resources"; and by striking the text contained in lines 690 to 692 inclusive.

The amendment was *rejected*.

Ms. Lovely moved that the proposed new draft be amended in section 25, in line 742, by striking the word "simple" and inserting in place thereof the following:- "2/3".

The amendment was *rejected*.

Mr. Tarr moved that the proposed new draft be amended by striking out the second sentence of clause 2 of section 6 on line 209 and inserting in place thereof the following sentence:— "These ordinances or by-laws shall provide that open space residential developments shall be allowed either in a specific district within that district or in multiple districts through overlay zoning, provided further, that open space residential developments shall be permitted by right in any zoning district where conventional subdivision design is permitted."

The amendment was *rejected*.

Mr. Tarr moved that the proposed new draft be amended by striking in line 292, the following:- "the public hearing on the ordinance or by-law required by section 5," and inserting in place thereof the following:- "the effective date of the ordinance or by-law".

The amendment was *rejected*.

Mr. Eldridge moved that the proposed new draft be amended in section 6, in line 204, by striking out the following: "The department may waive or modify the requirements of this subsection for rural municipalities or if a determination is made that no eligible locations exist within a municipality."

The amendment was *rejected*.

Messrs. Tarr and Ross moved that the proposed new draft be amended by inserting at the end thereof the text of Senate document numbered 2332, relative to sustainable development.

The amendment was *rejected*.

Mr. Tarr moved that the proposed new draft be amended in section 24, by inserting after the figure "\$15,000" the following new text:- "or the bond requirement of section 11 of chapter 40r whichever is greater".

After remarks, the amendment was adopted.

Messrs. Tarr and Ross moved that the proposed new draft be amended by striking in its entirety and inserting in place thereof the text of Senate document numbered 2333, relative to land use regulations.

After remarks, the amendment was *rejected*.

Ms. Forry moved that the proposed new draft be amended in section 6, by striking out, in line 195, the words "and (iii) be in eligible locations" and inserting in place thereof the following words:- "(iii) be in eligible locations; and (iv) accommodate a reasonable share of the regional need for multi-family housing."

The amendment was adopted.

Messrs. OConnor and Ross moved that the proposed new draft be amended by inserting after section 44, the following new section:-

"SECTION 45. The inspector general, in consultation with the attorney general shall enter into a contract with a third party for the purposes of auditing all affordable housing projects built through the comprehensive permit process since July 1, 1998 as outlined in sections 20 to 23, inclusive, of chapter 40B of the General Laws, as appearing in the 2008 Official Edition. The third party shall be

hired through a competitive bidding process and meet minimum professional qualifications as determined by the inspector general's office.

All audits performed through this section shall be conducted in accordance with generally accepted auditing standards, and include, but not be limited to, a review of the submitted cost certification, agreements between the developer and the financing authority, purchase and sale agreements, any and all documentation relating to the real estate appraisal of the relevant property or properties, all reported expenses and revenues, all documentation regarding the purchase, sale or lease, or tall constructed units, and any other matter requested by the inspector general.

At the request of the third party, the inspector general's office may subpoena the production of all records, reports, audits, reviews, papers, books, documents, recommendations, correspondence, and any other data and material relevant to any matter under audit or investigation, in accordance with section 9 of chapter 12A of the General Laws, as so appearing."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty minutes before three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 12 — nays 26) **[Yeas and Nays No. 359]:**

YEAS.

deMacedo, Viriato M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Gobi, Anne M.
Humason, Donald F., Jr.
Keenan, John F.

Lewis, Jason M.
Moore, Michael O.
OConnor, Patrick M.
Ross, Richard J.
Tarr, Bruce E.
Timilty, James E. — **12.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette

Jehlen, Patricia D.
Joyce, Brian A.
Lesser, Eric P.
L'Italien, Barbara A.
Lovely, Joan B.

L.

Chang-Diaz, Sonia
Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena

Montigny, Mark C.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Rush, Michael F.
Spilka, Karen E.
Welch, James T.
Wolf, Daniel A. — **26.**

ABSENT OR NOT VOTING.

McGee, Thomas M. — **1.**

The yeas and nays having been completed at fourteen minutes before three o'clock P.M., the amendment was *rejected*.

There being no objection, further consideration of this item was temporarily laid aside.

There being no objection, during consideration of the Orders of the Day, the following matter was taken out of order and considered, as follow:

The Senate Bill relative to public space recycling (Senate, No. 1653),-- was read a second time.

Public space recycling.

After remarks, and pending the main question on ordering the bill to a third reading, and pending the amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2310), Messrs. Tarr and Ross moved that the proposed new draft be amended by inserting in line 57 after "subsection (b)" the following:- "(iv) costs related to the leading by example program".

1

After remarks, the amendment was adopted.

Mr. Tarr moved that the proposed new draft be amended by inserting in section 1, after line 5, the following:-

2

“‘Carpet’ means a manufactured article that is used in commercial or residential building affixed or placed on the floor or building walking surface as a decorative or functional building interior feature and this is primarily constructed of a top visible surface of synthetic face fibers or yarns or tufts attached to a backing system derived from synthetic or natural materials. It includes broadloom and carpet tiles; it does not include a rug, pad, cushion, or underlayment.”; and in line 46 by inserting after the word “material” the following:- “(xii) and carpets”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at one minute before three o’clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 360]:**

YEAS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
deMacedo, Viriato M.
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Fattman, Ryan C.
Flanagan, Jennifer L.
Forry, Linda Dorcena
Gobi, Anne M.
Humason, Donald F., Jr.
Jehlen, Patricia D.

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
Montigny, Mark C.
Moore, Michael O.
O'Connor, Patrick M.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Timilty, James E.
Welch, James T.
Wolf, Daniel A. — **38.**

NAYS — 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. — **1.**

The yeas and nays having been completed at two minutes past three o’clock P.M., the amendment was adopted.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2310, amended) was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of

the yeas and nays at three minutes past three o'clock P.M., on motion of Ms. Gobi, as follows, to wit (yeas 38 – nays 0) **[Yeas and Nays No. 361]:**

YEAS.

Barrett, Michael J.	Joyce, Brian A.
Boncore, Joseph A.	Keenan, John F.
Brady, Michael D.	Lesser, Eric P.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	Lovely, Joan B.
Creem, Cynthia Stone	Montigny, Mark C.
deMacedo, Viriato M.	Moore, Michael O.
DiDomenico, Sal N.	O'Connor, Patrick M.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Tarr, Bruce E.
Gobi, Anne M.	Timilty, James E.
Humason, Donald F., Jr.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 38.

NAYS – 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. – **1.**

The yeas and nays having been completed at five minutes past three o'clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

The Senate then returned to a matter previously laid aside:

The Senate Bill promoting the planning and development of sustainable communities (Senate, No. 2144),-- was further considered, the main question being on ordering the bill to a third reading.

Zoning.

Ms. Donoghue moved that the proposed new draft be amended in section 5, in line 158, by striking out the word "may" and inserting in place thereof the following word:- "shall"; and in said section 5, by inserting after the second sentence of the second paragraph the following sentence:- "Only the owner or a member of the owner's family shall occupy an accessory dwelling unit."

4

The amendment was *rejected*.

Ms. Donoghue moved that the proposed new draft be amended in section 5, in line 154, by striking out the figure "5,000" and inserting in place thereof the following figure:- "7,500".

5

The amendment was *rejected*.

Messrs. Brownsberger, Ross and Joyce moved that the proposed new draft be amended in section 21, by striking out, in lines 491 and 492, the words "in return for municipal affordable housing concessions"; and, in line 496, by striking out the word "shall" and inserting in place thereof the word: - "may".

13

The amendment was adopted.

Mr. Barrett moved that the proposed new draft be amended in section 21, by

16

striking out, in line 422, the words “necessary to” and inserting in place thereof the following word:- “that”.

The amendment was adopted.

Mr. Barrett moved that the proposed new draft be amended in section 21, in proposed subsection (b) of proposed section 9E of chapter 40A of the General Laws, by striking out the first sentence; in said section 21, by striking out, in line 427, the word “Impact” and inserting in place thereof the following words:- “Development impact”; and in said section 21, by striking out, in lines 431 and 432, the words “and (vi) parks and recreational facilities” and inserting in place thereof the following words:- “(vi) parks and recreational facilities; and (vii) publicly owned or publicly financed electric power generation or transmission”.

17

The amendment was adopted.

Mr. Tarr moved that the proposed new draft be amended in section 22, by striking out the second paragraph and inserting in place thereof the following paragraph:-

33

“In making its determination, the permit-granting authority shall take into consideration the benefit to the applicant if the variance is granted as well as the detriments to the health, safety and welfare of the neighborhood or community if the variance is granted. The permit-granting authority shall also consider if: (i) the benefit sought by the applicant can be achieved by another method feasible for the applicant to pursue, other than a variance; (ii) the variance will have a disproportionately adverse effect on nearby properties, the character of the neighborhood or the environment; (iii) the variance will nullify or substantially derogate from the intent or purpose of the ordinance or by-law or a master plan under section 81D of chapter 41 if a master plan is in effect; and (iv) the claimed difficulty relating to the property in question is unique and does not also apply to a substantial portion of the district or neighborhood. The permit-granting authority may also take into consideration the extent to which the claimed difficulty is self-created and may base a denial solely upon a finding that the claimed difficulty is self-created. In the granting of variances, the permit-granting authority shall grant the minimum variance that it deems necessary to relieve the difficulty.”

After remarks, the amendment was adopted.

Ms. Creem and Messrs. Brownsberger and Lesser moved that the proposed new draft be amended by striking out section 5 and inserting in place thereof the following section:-

46

“SECTION 5. Section 3 of said chapter 40A, as appearing in the 2014 Official Edition, is hereby amended by adding the following paragraph:-

No zoning ordinance or by-law shall prohibit or require a special permit for the use of land or structures for an accessory dwelling unit located internally within a single-family dwelling or the rental thereof on a lot with 5,000 square feet or more or on a lot of sufficient area to meet the requirements of title 5 of the state environmental code established by section 13 of chapter 21A, if applicable, but such land or structures may be subject to reasonable regulations concerning dimensional setbacks, screening, and the bulk and height of structures. The zoning ordinance or by-law may require that the principal dwelling or the accessory dwelling unit be continuously owner-occupied and may limit the total number of accessory dwelling units in the municipality to a percentage not lower than 5 per cent of the total non-seasonal single-family housing units in the municipality. Not more than 1 additional parking space shall be required for an accessory dwelling unit but, if parking is required for the principal dwelling, that parking shall either be retained or replaced. As used in this paragraph, ‘accessory dwelling unit’ shall

mean a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities, incorporated within the same structure as the principal dwelling that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) shall not be sold separately from the principal dwelling; and (iii) is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller. Exterior alterations of the principal dwelling for purposes of allowing separate primary or emergency access to the accessory dwelling unit shall be allowed without a special permit if such alterations are within applicable dimensional setback requirements. Nothing in this paragraph shall authorize an accessory dwelling unit to violate or avoid compliance with the building, fire, health or sanitary codes, historic or wetlands laws, ordinances or by-laws, or title 5 of the state environmental code established by section 13 of chapter 21A, if applicable. The department of housing and community development may by regulation exempt a municipality from this paragraph if the department determines that (1) the municipality has a number of multifamily units greater than required under section 3A by a number of housing units not less than 5 per cent of the total non-seasonal housing units in the municipality, or (2) housing sale prices in the municipality have declined over the previous 3-year period.”

After remarks, the amendment was adopted.

Ms. Creem moved that the proposed new draft be amended in section 6, by striking the definition of “Multi-family housing” in lines 183-184 and inserting in place thereof the following:

47

“‘Multi-family housing’, a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.”;

Said section is further amended in line 188, by inserting after the words “as of right” the following:- “, which may include business, commercial or mixed use zones in eligible locations”; and

Said section is further amended in line 191, by striking the figure “15” and inserting in place thereof the figure “14”.

After remarks, the amendment was adopted.

Ms. Creem moved that the proposed new draft be amended by striking section 17 in its entirety and inserting in place thereof the following:-

49

“SECTION 17. The twelfth paragraph of said section 9 of said chapter 40A, as so appearing, is hereby amended by adding after the last sentence the following:- ‘; provided however, that a city or town may amend its bylaws to provide that issuance of a special permit shall require an affirmative vote of not less than a simple majority of the special permit granting authority’.”.

After remarks, the amendment was adopted.

Ms. Creem moved that the proposed new draft be amended in section 25, by inserting in line 742 after the words “of the plan” the following words:- “, including any vote of the legislative body to alter the plan or amendment as proposed by the planning board,”; and by striking out in lines 743 and 744, the following words:- “provided , however, that no vote of the legislative body to alter the plan or amendment as proposed by the planning board shall be other than by 2/3 majority”.

50

After remarks, the amendment was adopted.

Ms. Creem moved that the proposed new draft be amended in section 1 by

53

striking the second to last sentence.

After remarks, the amendment was adopted.

Ms. Lovely moved that the proposed new draft be amended in section 5, in line 158, by striking the word "may" and inserting in place thereof the following:- "shall". 56

The amendment was *rejected*.

Messrs. Lewis, Brownsberger and Tarr moved that the proposed new draft be amended by inserting at the end thereof the following:- 58

"SECTION X. There shall be a commission to explore opportunities for reforming and improving regional planning pursuant to chapter 40B. The commission shall submit a report to the house and senate clerks and the chairs of the joint committee on housing offering recommendations for increasing the sustainable supply of affordable housing in our communities while also increasing the authority of local communities to manage the siting and design of these projects so as to avoid undue harm to neighborhoods, schools, the environment, traffic and other local concerns.

The commission shall consist of the following 11 members: the commissioner of the department of housing and community development or a designee who shall serve as chair of the commission; four members appointed by the governor; two members appointed by the senate president; one member appointed by the minority leader of the senate; two members appointed by the speaker of the house; and one member appointed by the minority leader of the house of representatives.

The commission shall submit its report no later than June 30, 2017."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at nine minutes past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 19 — nays 20) **[Yeas and Nays No. 362]:**

YEAS.

Brady, Michael D.
Brownsberger, William N.
Creem, Cynthia Stone
deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Gobi, Anne M.
Humason, Donald F., Jr.
Lesser, Eric P.

Lewis, Jason M.
Lovely, Joan B.
Moore, Michael O.
OConnor, Patrick M.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, James E. — **19.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Chandler, Harriette L.
Chang-Diaz, Sonia
DiDomenico, Sal N.
Donnelly, Kenneth J.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena
Jehlen, Patricia D.

Joyce, Brian A.
Keenan, John F.
L'Italien, Barbara A
Montigny, Mark C.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rosenberg, Stanley C.
Spilka, Karen E.
Welch, James T.
Wolf, Daniel A. — **20.**

ABSENT OR NOT VOTING.

McGee, Thomas M. — **1.**

The yeas and nays having been completed at twelve minutes past four o'clock P.M., the amendment was *rejected*.

Messrs. OConnor and Ross moved that the proposed new draft be amended by inserting in line 171 after the word "laws" the following:- "An accessory dwelling unit or the rental thereof in a single-family residential zoning district may be considered affordable housing as defined under section 3 of this act or low-income or moderate-income housing as defined in section 20 to 23, inclusive of chapter 40B, and whose purchase or rent by a household is at or below 80 per cent of the median household income for the applicable metropolitan or non-metropolitan area and shall be eligible for inclusion on the local subsidized housing inventory subject to an in accordance with applicable regulations and guidelines of the department of housing and community development".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at eighteen minutes past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 10 — nays 28) **[Yeas and Nays No. 363]:**

YEAS.

deMacedo, Viriato M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Gobi, Anne M.
Humason, Donald F., Jr.

OConnor, Patrick M.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, James E. — **10.**

NAYS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena
Jehlen, Patricia D.

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
Montigny, Mark C.
Moore, Michael O.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Spilka, Karen E.
Welch, James T.
Wolf, Daniel A. — **28.**

ABSENT OR NOT VOTING.

McGee, Thomas M. — **1.**

The yeas and nays having been completed at twenty-one minutes past four o'clock P.M., the amendment was *rejected*.

Ms. Spilka moved that the proposed new draft be amended in section 3, by striking out the definition of "Permit granting authority" and inserting in place thereof the following definition:-

"'Permit granting authority', the board of appeals, zoning administrator or planning board as designated by zoning ordinance or by-law for the issuance of permits or as otherwise provided by charter.";

In section 4, by inserting after the word "chapter", in line 147, the following words:- "or a regulation issued pursuant to this chapter";

In section 6, by striking out, in line 189, the word "section" and inserting in place thereof the following word:- "paragraph";

In said section 6, by inserting after the word "district", in line 210, the first

28

61

time it appears, the following words:- “, a subdistrict”;

In said section 6, by striking out, in line 238, the word “subclause” and inserting in place thereof the following word:- “paragraph”;

In section 8, by striking out, in line 248, the word “clause” and inserting in place thereof the following word:- “paragraph”;

In section 25, by striking out, in lines 711 and 725, the words “shall include” and inserting in place thereof, in each instance, the following word:- “includes”;

In section 34, by striking out, in line 867, the word “exceeded” and inserting in place thereof the following word:- “exceed”; and

In section 44, by adding the following words:- “; provided, however, that subsection (c) of paragraph (1) of section 3A of chapter 40A of the General Laws, as appearing in said section 6, shall take effect on the effective date of this act”.

The amendment was adopted.

Recess.

At twenty-four minutes past four o'clock P.M., at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at twenty-three minutes before five o'clock P.M., the Senate reassembled, the President in the Chair.

Recess.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill promoting the planning and development of sustainable communities (Senate, No. 2144),-- was further considered, the main question being on ordering the bill to a third reading.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2311, printed as amended) was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays at twenty-one minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 23 – nays 15) **[Yeas and Nays No. 364]:**

YEAS.

Barrett, Michael J.
Boncore, Joseph A.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena

Jehlen, Patricia D.
Joyce, Brian A.
Lesser, Eric P.
L'Italien, Barbara A.
Lovely, Joan B.
Montigny, Mark C.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rosenberg, Stanley C.
Spilka, Karen E.
Wolf, Daniel A. – **23.**

NAYS.

Zoning reform.

deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Gobi, Anne M.
Humason, Donald F., Jr.
Keenan, John F.
Lewis, Jason M.

Moore, Michael O.
OConnor, Patrick M.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, James E. – 15.

ABSENT OR NOT VOTING.

McGee, Thomas M.

Welch, James T. – 2.

The yeas and nays having been completed at seventeen minutes before five o'clock P.M., the bill was passed to be engrossed [For bill, printed as amended, see Senate, No. 2327].

Sent to the House for concurrence.

There being no objection, the following matter was taken out of order from the Orders of the Day:

The Senate Bill relative to a moratorium on hydraulic fracturing (Senate, No. 457),-- was read a second time.

Hydraulic fracturing.

After remarks, and pending the question on adoption of the amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2309), and pending the main question on ordering the bill to a third reading, Mr. OConnor moved to amend the proposed new draft by inserting in section 2, the following new clause:-

1

“(15) Institute a statewide ban on the construction of any new natural gas compressor station that facilitates the passing of hydraulically fractured natural gas by way of pipeline through the confines of Massachusetts”.

The amendment was *rejected*.

Messrs. OConnor and Keenan moved to amend the proposed new draft by inserting after section 4, the following new section:-

2

“SECTION 5. Chapter 111 of the General Laws as so appearing, is hereby amended by adding the following new section:-

SECTION 142P. There shall be at least one Air Monitoring Station within a one-mile radius of any working natural gas compressor station to collect data and verify compliance with the National Ambient Air Quality Standards. Construction and maintenance of Air Monitoring Stations shall be funded through the building permit paid for by the operating energy corporation to the state Department of Environmental Protection. Personnel shall be staffed through the state Department of Environmental Protection to collect data on a weekly basis, varying between morning and evening collection times.”

The amendment was *rejected*.

Messrs. O'Connor and Keenan moved to amend the proposed new draft by adding the following section:-

3

“SECTION 5. Notwithstanding any general or special law to the contrary, no new natural gas compressor stations shall be located in an area which is less than 0.6 miles in linear distance from: (i) a playground; (ii) a licensed day care center; (iii) a school; (iv) a church; (v) an environmental justice population neighborhood; (vi) an area of critical environmental concern as determined by the secretary of environmental affairs under 301 CMR 12.00; (vii) a waterway preserved and

protected for water-dependent uses under chapter 91; or (viii) an area occupied by residential housing. Linear distance shall be measured from any point along a natural gas compressor station to the outermost point of buildings or areas in clauses (i) to (viii), inclusive; provided, however, that repairs or replacements that do not increase the capacity of a natural gas compressor station in operation prior to January 1, 2017, shall not be subject to this section. For the purposes of this section, ‘environmental justice population neighborhood’ shall mean a neighborhood with an annual median household income of not more than 65 per cent of the statewide median income or with a segment of the population that consists of residents that is not less than 25 per cent minority, foreign born or lacking in English language proficiency based on the most recent United States census.”

After remarks, the amendment was adopted.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2309, amended) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at four minutes before five o’clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 36 – nays 0) **[Yeas and Nays No. 365]:**

YEAS.

Barrett, Michael J.	Jehlen, Patricia D.
Boncore, Joseph A.	Joyce, Brian A.
Brady, Michael D.	Keenan, John F.
Brownsberger, William N.	Lesser, Eric P.
Chandler, Harriette L.	Lewis, Jason M.
Chang-Diaz, Sonia	Lovely, Joan B.
Creem, Cynthia Stone	Montigny, Mark C.
deMacedo, Viriato M.	Moore, Michael O.
DiDomenico, Sal N.	OConnor, Patrick M.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen.
Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Tarr, Bruce E.
Gobi, Anne M.	Timilty, James E.
Humason, Donald F., Jr.	Wolf, Daniel A. – 36.

NAYS – 0.

ABSENT OR NOT VOTING.

L'Italien, Barbara A.	Welch, James T. – 3.
McGee, Thomas M.	

The yeas and nays having been completed at one minute before five o’clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to recycling (Senate, No. 454),-- was read a second time.

Recycling.

Pending the question on adoption of the amendment, previously recommended by the committee on Ways and Means, and pending the main question on ordering the bill to a third reading, on motion of Mr. Pacheco, the further consideration thereof was postponed until Tuesday, June 28, 2016.

PAPERS FROM THE HOUSE.

The following House Orders (severally approved by the committees on Rules of the two branches, acting concurrently) were considered as follows:

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Economic Development and Emerging Technologies be granted until Wednesday, June 15, 2016, within which time to make its final report on current House document numbered 3983.

EDET,--
extension order.

The rules were suspended, on motion of Mr. Pacheco, and the order (House, No. 4344) was considered forthwith.

Subsequently, after remarks, the order was adopted, in concurrence.

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Education be granted until Friday, June 17, 2016, within which time to make its final report on current Senate documents numbered 253, 266, 267 and 268, and House documents numbered 326, 336, 341, 462, 489 and 3402.

Education
committee,--
extension order.

The rules were suspended, on motion of Ms. Chang-Díaz, and the order (House, No. 4371) was considered forthwith; and, after remarks, was adopted, in concurrence.

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Time of meeting.

Adjourn In Memory of George E. "Skip" Lane, Jr.

The Senator from Plymouth and Norfolk, Mr. OConnor, moved that when the Senate adjourns today, it adjourn in memory of George E. "Skip" Lane, Jr.

George was a graduate of Weymouth High School, Class of 1957 who continued his studies at Cheshire Academy, earned his Bachelor Degree from University of Notre Dame in 1962, and completed his studies of law at New England School of Law in 1970. Skip was a successful practicing attorney in Weymouth for over 47 years. He was a former Town of Weymouth City Solicitor of 25 years as well as the Past President of Massachusetts Municipal Lawyers Association. George proudly served his country as a First Lieutenant in the United States Army during the Vietnam Era. George was very experienced in the law, particularly local government law, and always willing to share his knowledge with his colleagues. He treasured the many friendships he had with his friends, colleagues, and clients.

George was a consummate professional and true leader in Weymouth. His wit, honesty, and genuine demeanor will be greatly missed.

Accordingly, as a mark of respect in memory of George E. "Skip" Lane, Jr., at five minutes past five o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to

meet again on Monday next at eleven o'clock A.M.
