The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, House, No. 2426) of Melvin H. King, Royal L. Bolling, Jr., Bill Owens, James Segel and Barney Frank relative to establishing an office of garden allotment and authorizing residents of the Commonwealth to garden on vacant public land; and the petition (accompanied by bill, House, No. 4921) of Karl Haartz for legislation to require the seeding of grass and the planting of trees on all vacant land in the communities of Boston, Brookline, Cambridge, Somerville, Chelsea, Everett and Malden, report recommending that the accompanying bill (House, No. 5653) ought to pass.

For the committee,

STEVE T. CHMURA.
AN ACT ESTABLISHING A DIVISION OF AGRICULTURAL LAND USE WITHIN THE DEPARTMENT OF AGRICULTURE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 6 of chapter 20 of the General Laws is hereby amended by striking out the first sentence as appearing in section 1, of chapter 347 of the acts of 1967 and inserting in place thereof the following sentence:

The commissioner shall organize the department into divisions including a division of dairying and animal husbandry, a division of animal health, a division of plant pest control, a division of fairs, a division of markets, a division of agricultural land use, and such other divisions as he may from time to time determine, and shall assign to said divisions their functions.

SECTION 2. Chapter 20 of the General Laws is hereby further amended by inserting after section 12, the following eight sections:

Section 13. Whereas, vacant lands, if left untended, often become unsightly and unsanitary dumping grounds; and whereas, the productive use thereof will provide environmental benefits to all citizens of the commonwealth; and whereas, the productive use of vacant land for gardening and farming may have educational, recreational, environmental, nutritional and economic benefits; it is hereby declared to be the policy of the commonwealth to encourage individual residents or groups of residents to use vacant state, city or other public lands for the purpose of gardening or farming.

Section 14. The following words as used in the following six sections, unless the context otherwise requires, shall have the following meanings:

“Agriculture” and “farming”, as defined in section 1A of chapter 128 of the General Laws.
"Director", director of agricultural land use.

"Division", division of agricultural land use.

"Farm", a body of land devoted to agriculture.

"Garden", a small piece of land appropriate for the cultivation of herbs, fruits, flowers, or vegetables.

"Use", when applied to gardening; to make use of, without conveyance of title or any other ownership.

"Vacant public land", any land owned by the commonwealth, or any county or municipality therein, that is not now in use for public purposes.

Section 15. Any person or a group of persons may make application to the division for a permit to use available vacant public land for garden or farm purposes on a form to be furnished by the director. Applicants shall submit a plan for said use and shall agree to maintain the land in a condition consistent with their land use plan, and shall agree to abide by the rules and regulations promulgated by the division. Failure to carry out the conditions of agreement shall result in the forfeiture of the garden or farm permit. Permits shall be renewable upon application provided there are no other applicants for the same particular site. Any person who is granted the use of garden or farm land shall indemnify and save harmless the Commonwealth of Massachusetts, the department of agriculture and all of its officers, agents and employees against suits and claims of liability of each name and nature arising out of, or in consequence of the use of vacant public land.

Section 16. Priority in the allotment of vacant public land for garden and farm purposes shall be given to the elderly, low income and youth respectively. Products grown in gardens and farms may not be sold. However, this section does not prohibit free distribution of such products.

Section 17. The director shall, with the cooperation with other state agencies and cities and towns throughout the commonwealth, compile a list of all vacant land, that in the opinion of the said agencies and cities and towns, can be feasibly used for gardening or farming. The director shall, by letters of agreement, contract with such agencies or cities and towns for the use of said vacant land. Contracts may contain a termination date. If no date is determined, either party may terminate the
contract by written notice given within a reasonable time, provided however, that no contract may be terminated until the end of the harvest season. The division shall notify the gardeners or farmers of said notice of termination.

Section 18. Individuals may donate privately owned land to be used by the division. The division shall assume full responsibility in the administration of this land.

Section 19. The director after a public hearing shall adopt and promulgate rules and regulations consistent with sections 13-18, inclusive.

Section 20. Any person aggrieved by a decision of the director may, within ten days after such decision, appeal therefrom, by petition to the superior court in the county he resides in, or the county of Suffolk. The court shall hear such petitions speedily in accordance with the usual course of procedure in equity, and may affirm, modify or revoke such decision.