

**NOTICE:** While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

*Thursday, March 5, 2009.*

Met at one o'clock P.M. (Mr. Rosenberg in the Chair).

#### *Distinguished Guests.*

There being no objection, the President introduced, in the rear of the Chamber, Senior Airman Steven Minukas of Quincy. Steven serves with the 50th Security Forces based out of Schriever Air Force Base in Colorado. He has served out of Al Assad Air Base in the Anbar Province of Iraq as well as the Talil Air Base in Iraq. Steven is currently home on leave for two weeks and was accompanied by his father Joseph and his mother Kathy. They were the guests of Senator Morrissey.

#### *Recess.*

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at nine minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

At ten minutes past two o'clock, P.M., Mr. Tisei 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.

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

#### *Resolutions.*

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:—  
Resolutions (filed by Ms. Murray) “congratulating the citizens of the town of Bourne as they celebrate the one hundred and twenty-fifth anniversary of its incorporation.”

#### *Matter Taken Out of the Orders of the Day.*

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:  
Reorganization Plan No. 1 of 2009 (submitted by the Governor under the provisions of Article LXXXVII of the Amendments to the Constitution) relative to reorganizing certain state agencies of the executive department (printed in Senate, No. 11),— was considered, the question being “Shall this reorganization plan be approved?”.  
After remarks, the question on approving the reorganization plan was determined by a call of the yeas and nays at twenty-five minutes past two o'clock P.M., as follows, to wit (*yeas 38— nays 0*) [**Yeas and Nays No. 10**]:

YEAS.

Baddour, Steven A. Knapik, Michael R.

Berry, Frederick E. McGee, Thomas M.

Brown, Scott P. Menard, Joan M.  
Buoniconti, Stephen J. Montigny, Mark C.  
Candaras, Gale D. Moore, Michael O.  
Chandler, Harriette L. Moore, Richard T.  
Chang-Diaz, Sonia Morrissey, Michael W.  
Creem, Cynthia Stone O'Leary, Robert A.  
Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petrucci, Anthony  
Fargo, Susan C. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Tarr, Bruce E.  
Hart, John A., Jr. Timilty, James E.  
Hedlund, Robert L. Tisei, Richard R..  
Jehlen, Patricia D. Tolman, Steven A.  
Joyce, Brian A. Tucker, Susan C.  
Kennedy, Thomas P. Walsh, Marian — 38.

NAYS — 0.

ABSENT OR NOT VOTING

Brewer, Stephen M.— 1.

The yeas and nays having been completed at twenty-eight minutes past two o'clock P.M., Reorganization Plan No. 1 of 2009 (Senate, No. 11) was approved.

**PAPER FROM THE HOUSE.**

*Engrossed Bill — Land Taking for Conservation Etc.*

An engrossed Bill authorizing the town of Framingham to erect a maintenance facility (see House, No. 99) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-nine minutes past two o'clock P.M., as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 11]:

YEAS.

Baddour, Steven A. Chandler, Harriette L.  
Berry, Frederick E. Chang-Diaz, Sonia  
Brown, Scott P. Creem, Cynthia Stone  
Buoniconti, Stephen J. Donnelly, Kenneth J.  
Candaras, Gale D. Downing, Benjamin B.  
Eldridge, James B. Moore, Richard T.  
Fargo, Susan C. Morrissey, Michael W.  
Flanagan, Jennifer L. O'Leary, Robert A.  
Galluccio, Anthony D. Pacheco, Marc R.  
Hart, John A., Jr. Panagiotakos, Steven C.  
Hedlund, Robert L. Petrucci, Anthony  
Jehlen, Patricia D. Rosenberg, Stanley C.  
Joyce, Brian A. Spilka, Karen E.  
Kennedy, Thomas P. Tarr, Bruce E.  
Knapik, Michael R. Timilty, James E.  
McGee, Thomas M. Tisei, Richard R..  
Menard, Joan M. Tolman, Steven A.  
Montigny, Mark C. Tucker, Susan C.  
Moore, Michael O. Walsh, Marian — 38.

NAYS — 0.

ABSENT OR NOT VOTING

Brewer, Stephen M.— 1.

The yeas and nays having been completed at twenty-eight minutes before three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill relative to extending the Commonwealth's power to guarantee certain obligations of the Massachusetts Turnpike Authority (House, No. 100),— was read a third time.

Mr. Rosenberg in the Chair, after debate, and pending the question on passing the bill to be engrossed, Mr. Montigny moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 16.

After further debate, the question on adoption of the amendment was determined by a call of the yeas and nays at nineteen minutes before four o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 33 — nays 5) [Yeas and Nays No. 12]:

YEAS.

Baddour, Steven A. Jehlen, Patricia D.

Berry, Frederick E. Joyce, Brian A.

Brown, Scott P. Kennedy, Thomas P. Buoniconti, Stephen J. Knapik, Michael R.

Candaras, Gale D. McGee, Thomas M.

Chang-Diaz, Sonia Menard, Joan M.

Downing, Benjamin B. Montigny, Mark C.

Eldridge, James B. Moore, Michael O.

Fargo, Susan C. Moore, Richard T.

Galluccio, Anthony D. Morrissey, Michael W.

Hart, John A., Jr. O'Leary, Robert A.

Hedlund, Robert L. Pacheco, Marc R.

Panagiotakos, Steven C. Timilty, James E.

Petruccelli, Anthony Tisei, Richard R.

Rosenberg, Stanley C. Tolman, Steven A.

Spilka, Karen E. Tucker, Susan C. — 33.

Tarr, Bruce E.

NAYS.

Chandler, Harriette L. Flanagan, Jennifer L.

Creem, Cynthia Stone Walsh, Marian — 5.

Donnelly, Kenneth J.

ABSENT OR NOT VOTING.

Brewer, Stephen M.— 1.

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

Mr. Panagiotakos moved to reconsider the vote by which the Senate had adopted the amendment; and this motion prevailed.

Pending the recurring question on adoption of the amendment (Montigny), Messrs. Tisei, Knapik, Tarr, Brown and Hedlund moved that the amendment be amended by adding the following section:—

“Section 14. Notwithstanding any general or special law to the contrary, at least 1 member of the audit committee of the Massachusetts Turnpike Authority shall be a certified public accountant, so long as at least 1 member of the turnpike board is a certified public accountant.”

After debate, the question on adoption of the further amendment was determined by a call of the yeas and nays at thirteen minutes past four o'clock P.M., on motion of Mr. Hedlund, as follows, to wit (yeas 6 — nays 32) [Yeas and Nays No. 13]:

YEAS.

Brown, Scott P. Montigny, Mark C.

Hedlund, Robert L. Tarr, Bruce E.

Knapik, Michael R. Tisei, Richard R. — 6.

NAYS.

Baddour, Steven A. Kennedy, Thomas P.

Berry, Frederick E. McGee, Thomas M.

Buoniconti, Stephen J. Menard, Joan M.

Candaras, Gale D. Moore, Michael O.

Chandler, Harriette L. Moore, Richard T.

Chang-Diaz, Sonia Morrissey, Michael W.

Creem, Cynthia Stone O'Leary, Robert A.

Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petrucci, Anthony  
Fargo, Susan C. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Timilty, James E.  
Hart, John A., Jr. Tolman, Steven A.  
Jehlen, Patricia D. Tucker, Susan C.  
Joyce, Brian A. Walsh, Marian — 32.  
ABSENT OR NOT VOTING.  
Brewer, Stephen M.— 1.

The yeas and nays having been completed at seventeen minutes past four o'clock P.M., the amendment was rejected.  
Messrs. Tisei, Knapik, Tarr, Brown and Hedlund moved that the amendment be amended by adding the following new section:—  
“Section 14. Notwithstanding any general or special law to the contrary, the Massachusetts Turnpike Authority shall not make payment to any employee of the authority for a compensation increase, whether awarded retroactively or prospectively after January 1, 2009, until such time as the guarantee provided in section 27 of chapter 304 of the acts of 2008 expires.”  
After remarks, the amendment was rejected.

Messrs. Tisei, Knapik, Tarr, Brown and Hedlund moved that the amendment be amended by adding the following section:—  
“Section 14. Notwithstanding any general or special law to the contrary, the board of the Massachusetts Turnpike Authority shall not consider or adopt any toll increase in excess of what is certified as absolutely necessary in order to maintain any special obligation bonds funded through such tolls in good standing until such time as the guarantee provided in section 27 of chapter 304 of the acts of 2008 expires. The executive director of the authority shall certify what amount is deemed absolutely necessary to keep said bonds in good standing not later than 30 days prior to any votes by the board to establish any new toll amount, and shall forward the certification to the house and senate committees on ways and means, the house and senate committees on bonding, capital expenditures and state assets and the joint committee on transportation.”  
After debate, the question on adoption of the further amendment was determined by a call of the yeas and nays at nineteen minutes before five o'clock P.M., on motion of Mr. Hedlund, as follows, to wit (yeas 12 — nays 26) [Yeas and Nays No. 14]:

YEAS.

Brown, Scott P. Moore, Richard T.  
Candaras, Gale D. O'Leary, Robert A.  
Hedlund, Robert L. Spilka, Karen E.  
Knapik, Michael R. Tarr, Bruce E.  
McGee, Thomas M. Tisei, Richard R.  
Montigny, Mark C. Tucker, Susan C. — 12.

NAYS.

Baddour, Steven A. Galluccio, Anthony D.  
Berry, Frederick E. Hart, John A., Jr.  
Buoniconti, Stephen J. Jehlen, Patricia D.  
Chandler, Harriette L. Joyce, Brian A.  
Chang-Diaz, Sonia Kennedy, Thomas P.  
Creem, Cynthia Stone. Menard, Joan M. Donnelly, Kenneth J. Moore, Michael O.  
Downing, Benjamin B. Morrissey, Michael W.  
Eldridge, James B. Pacheco, Marc R.  
Fargo, Susan C. Panagiotakos, Steven C. Flanagan, Jennifer L. Petrucci, Anthony  
Rosenberg, Stanley C. Tolman, Steven A.  
Timilty, James E. Walsh, Marian — 26.

ABSENT OR NOT VOTING.

Brewer, Stephen M.— 1.

The yeas and nays having been completed at a quarter before five o'clock P.M., the amendment was rejected.  
Mr. Tisei moved to reconsider the vote by which the Senate had rejected the further amendment; and, after debate, this motion was negatived.  
Mr. Tisei doubted the vote and asked for a call of the yeas and nays; and, a sufficient number having arisen, the yeas and nays were ordered.  
The question on reconsideration was determined by a call of the yeas and nays, at three minutes before five o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 6 — nays 32) [Yeas and Nays No. 15]:

YEAS.

Brown, Scott P. Montigny, Mark C.  
Hedlund, Robert L. Tarr, Bruce E.  
Knapik, Michael R. Tisei, Richard R. — 6.

NAYS.

Baddour, Steven A. Kennedy, Thomas P.  
Berry, Frederick E. McGee, Thomas M.  
Buoniconti, Stephen J. Menard, Joan M.  
Candaras, Gale D. Moore, Michael O.  
Chandler, Harriette L. Moore, Richard T.  
Chang-Diaz, Sonia Morrissey, Michael W.  
Creem, Cynthia Stone O'Leary, Robert A.  
Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petruccelli, Anthony  
Fargo, Susan C. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Timilty, James E.  
Hart, John A., Jr. Tolman, Steven A.  
Jehlen, Patricia D. Tucker, Susan C.  
Joyce, Brian A. Walsh, Marian — 32.

ABSENT OR NOT VOTING.

Brewer, Stephen M.— 1.

The yeas and nays having been completed at five o'clock P.M., the motion to reconsider was negatived.  
The recurring question on adoption of the pending amendment (Montigny) was considered; and it was adopted.  
The bill, as amended, was then passed to be engrossed, in concurrence, with the amendment.  
Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Ms. Menard,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M.

Adjournment in Memory of Lance Corporal Kevin T. Preach.

The Senator from Plymouth and Bristol, Mr. Pacheco, requested that when the Senate adjourns today, it adjourn in memory of Lance Corporal Kevin T. Preach of Bridgewater.

Lance Corporal Kevin T. Preach, 21 of Bridgewater, was seriously wounded January 24, 2009 in Afghanistan when the Humvee in which he was a gunner was hit by an improvised explosive device. Lance Corporal Preach lost both legs and a hand and was badly burned. He was in a medically induced coma at Brooks Army Medical Center in San Antonio, Texas until he passed away Saturday, February 7, 2009. Lance Corporal Preach is the first Bridgewater native to die in combat since the Vietnam War.

Accordingly, as a mark of respect to the memory of Lance Corporal Kevin T. Preach, at three minutes past five o'clock P.M., on motion of Mr. Tisei, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.