NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 25, 2006

11:15 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: With us this morning to give the invocation is Reverend Scott Ingvaldsen, pastor of Grace Church in Smithtown, New York.

REVEREND INGVALDSEN: Let's pray.

Our Father, we come before You today knowing that, Lord, we do have a great need of You. We ask, Lord, that You would grant wisdom and insight to these people as they vote on very important matters. We thank You for them, and we thank You for their service, and we pray that You would just guide them in everything they do.

Give them, God, the wisdom, give them the insight, give them the humility and everything they need that they might guide our great state. And I thank You for them. And I

ask You to bless them and their families. And, God, may the decisions that are made here be for the betterment of this state.

And we just pray for these things in Jesus' name. Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, April 24, the Senate met pursuant to adjournment. The Journal of Sunday, April 23, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you,

Madam President.

On behalf of Senator Padavan, on page number 30 I offer the following amendments to Calendar Number 557, Senate Print Number 4970, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: Madam President, on behalf of Senator DeFrancisco, I wish to call up Senate Print Number 6905A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 547, by Senator DeFrancisco, Senate Print 6905A, an act to authorize.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolutions 4709, 4733, 4772 and 4754.

THE PRESIDENT: All those in favor of so adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The calendar is so adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 4709, by Senator Golden, have the title read and move for its immediate adoption. And Senator Golden would like to open it up for sponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 4709, memorializing Governor George E. Pataki to proclaim May 2006 as Autism Awareness Month in the State of New York.

THE PRESIDENT: On the resolution, all those in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Any member who does not wish to cosponsor the last resolution please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 4733, by Senator Maltese, have the title read, move for its immediate adoption, and also open it up for cosponsorship.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: By Senator Maltese, Legislative Resolution Number 4733, memorializing Governor George E. Pataki to proclaim Tuesday, May 9, 2006, as Teacher Day in the State of New York.

THE PRESIDENT: All those in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 4772, by Senator Winner, have the title read, move for its immediate adoption, and open it up for cosponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Winner, Legislative Resolution Number 4772, memorializing Governor George E. Pataki to

proclaim May 19, 2006, as NASCAR Day in the State of New York.

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Thank you, Madam President. Just briefly on the resolution.

I'm proud to be able to wave the green flag, so to speak, as far as this resolution is concerned, New York State's celebration of NASCAR Day for 2006.

In my Senate district, Watkins Glen is the well-known home of the soul of American road racing, which over the course of over five decades has become a national institution, the premier road racing facility in America.

Watkins Glen is a source of pride for us and a source of pride for the State of New York and a landmark that attracts thousands of visitors every year and is, in fact, the largest sports attraction in New York State on an annual basis.

This year Watkins Glen celebrates its 20th year as the NASCAR Nextel Cup of racing, and over the past decade we've had thousands upon thousands of NASCAR fans to

visit Watkins Glen and the community of Watkins Glen, and certainly we know its enthusiasm.

In recognizing NASCAR's spirit today, this resolution seeks to have New York State join many, many other states in proclaiming Friday, May 19th, as NASCAR Day 2006. NASCAR Day is the signature charitable event of the NASCAR Foundation and supports a wide range of worthy charitable initiatives. It's an opportunity for all of us to draw attention to NASCAR fans across New York and bring them to a worthwhile cause, and a worthy opportunity for all of them to express their sense of community.

Thank you, Madam President.

THE PRESIDENT: All those in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Any member who does not wish to

cosponsor the last two resolutions please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, if could take up Resolution 4754, by Senator Marcellino, have the title read, move for its immediate adoption, and open it up for cosponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marcellino, Legislative Resolution Number 4754, memorializing Governor George E. Pataki to proclaim the week of May 15 through 21, 2006, as Prevention is the Cure Week in the State of New York.

THE PRESIDENT: All those in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Any member who does not wish to

cosponsor the last resolution please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe the Finance Committee is just starting their deliberations in Room 124. So if members wish to attend, they should go, and we'll stand at ease pending the completion of that meeting.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 11:23 a.m.)

(Whereupon, the Senate reconvened at 11:33 a.m.)

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President. If we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 99, by Senator Maziarz, Senate Print 203, an act to amend the Vehicle and Traffic Law, in

relation to increasing penalties.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

SENATOR SKELOS: Lay that aside temporarily, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 100, by Senator Marcellino, Senate Print 659, an act to amend the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 101, by Senator Marcellino, Senate Print 665, an act to amend the Vehicle and Traffic Law, in relation to --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MORAHAN: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 252, by Senator Maziarz, Senate Print 692A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 256, by Senator Nozzolio, Senate Print 2286, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 257, by Senator Marcellino, Senate Print 2855, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 310, by Senator Maziarz, Senate Print 210A, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

562, by Senator Robach, Senate Print 1613A, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 565, by Senator Robach, Senate Print 3418, an act to amend the Criminal Procedure Law and the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 649, by Senator Padavan, Senate Print 6997, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

661, by Senator Alesi, Senate Print 2273, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I'm going to vote for this bill. But once again, this bill brings forward the issue of addiction to alcohol. You know, people in New York need and deserve mental health treatment and addiction treatment. And if we had it, we might not have the problem that we have that this bill is trying to deal with.

So here we are yet another day here in session, and we have yet to pass Timothy's Law. And that is just plain wrong. I don't

know why we let countless New Yorkers suffer from mental health issues and substance abuse issues and not do what we can to help them. We need to pass Timothy's Law.

I'll be voting yes, Mr. President.

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 679, by Senator Morahan, Senate Print 6939, an act to authorize.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 692, by Senator Hannon, Senate Print 5811A, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 693, by Senator Little, Senate Print 6428, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: There is a local fiscal impact statement at the desk.

Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Valesky recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 698, by Senator Morahan, Senate Print 3091A, an act to amend the Banking Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

99, by Senator Maziarz, Senate Print 203, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President.

I have opposed this legislation in past prior sessions. I'm going to withdraw my objection and vote yes on this, although I still have some reservations about the fact that there are a number of different degrees of impairment based on prescription drugs that people experience. Very often they are unaware that they are going to have that kind of reaction and therefore may possibly be charged under this bill.

But nonetheless, I'm going to

withdraw my objection and vote yes.

ACTING PRESIDENT MORAHAN: Senator Montgomery will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 101, by Senator Marcellino, Senate Print 665, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate conference of the Majority in the Majority Conference Room. It's expected that the conference will last approximately a half hour, and then we'll reconvene.

ACTING PRESIDENT MORAHAN: There will be an immediate meeting of the Majority in the Majority Conference Room which will last about a half an hour, and in the meantime the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:54 a.m.)

(Whereupon, the Senate reconvened at 12:59 p.m.)

ACTING PRESIDENT ALESI: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President. Would you please recognize Senator Gonzalez.

ACTING PRESIDENT ALESI: Senator Gonzalez.

SENATOR GONZALEZ: Mr. President, there will be a conference of the Minority at 2 o'clock in Room 315.

ACTING PRESIDENT ALESI: Minority conference at 2 o'clock in Room 315.

Senator Skelos.

SENATOR SKELOS: Mr. President, the Senate will stand at ease until 2:30 this afternoon.

ACTING PRESIDENT ALESI: The Senate will stand at ease until 2:30.

(Whereupon, the Senate stood at ease at 1:01 p.m.)

(Whereupon, the Senate reconvened at 4:59 p.m.)

ACTING PRESIDENT ALESI: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, there's a Resolution 4797 at the desk, by Senator Bruno. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT ALESI: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 4797, congratulating the Troy Albany Youth Hockey Association PeeWee Team upon the occasion of

competing in the 2006 Tretiak Friendship Cup Tournament in Moscow.

ACTING PRESIDENT ALESI: On the resolution, all in favor, aye.

(Response of "Aye.")

ACTING PRESIDENT ALESI: Opposed, nay.

(No response.)

ACTING PRESIDENT ALESI: The resolution is adopted.

SENATOR SKELOS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT ALESI: Senator Skelos, there is no further business at the desk.

SENATOR SKELOS: I move we adjourn until Wednesday, April 26th, at 11:00 a.m.

ACTING PRESIDENT ALESI: On motion, the Senate stands adjourned until Wednesday, April 26th, at 11:00 a.m.

(Whereupon, at 5:00 p.m., the Senate adjourned.)