NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

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11:08 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

ACTING PRESIDENT MORAHAN: The Senate will come to order.

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

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

ACTING PRESIDENT MORAHAN: In the absence of clergy, I ask that we bow our heads for a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT MORAHAN: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 9, the Senate met pursuant to adjournment. The Journal of Monday, May 8, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MORAHAN: 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 Winner.

SENATOR WINNER: Thank you, Mr. President.

On behalf of Senator Alesi, on page number 44 I offer the following amendments to Calendar Number 760, Senate Print Number 7001, and ask that the bill retain its place on the Third Reading Calendar.

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

SENATOR WINNER: Thank you, Mr. President.

On behalf of Senator Nozzolio, on page 22 I offer the following amendments to Calendar Number 244, Senate Print Number 6471B, and ask that the bill retain its place on the Third Reading Calendar.

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

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

On behalf of myself, on page number 50 I offer the following amendments to Calendar Number 846, Senate Print Number 1183A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MORAHAN: The amendments are received, and the bill will remain in its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Mr. President, are there substitutions at the desk to be made?

ACTING PRESIDENT MORAHAN: Yes, there are, Senator.

SENATOR BRUNO: Then may I ask that they be made at this time.

ACTING PRESIDENT MORAHAN: The

Secretary will read.

THE SECRETARY: On page 55, Senator Balboni moves to discharge, from the Committee on Codes, Assembly Bill Number 9755 and substitute it for the identical Senate Bill Number 7212, Third Reading Calendar 910.

ACTING PRESIDENT MORAHAN: The substitution is ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President and colleagues, with your permission I would just like to acknowledge two schools that are represented here that are really outstanding schools, one of them from Senator Betty Little, our great Senator, from Glens Falls, which is St. Mary's Academy, up on the right. And that happens to be my alma mater, and Betty's alma mater.

And there they are, young outstanding citizens.

(Applause.)

ACTING PRESIDENT MORAHAN: Welcome to our Senate chamber, and we hope that you have a very interesting and productive day and a little fun while you're

at it.

Thank you.

SENATOR BRUNO: And, Mr. President, next to them is another outstanding school in the Capital Region, Doane Stuart.

And they are visiting the Capitol, some of them for the very first time, and we welcome them here to the Senate chamber.

ACTING PRESIDENT MORAHAN: We welcome you to the Senate chamber. We hope you too have a productive and joyful day and some fun while you visit our Capitol and see your State Legislature in action.

(Applause.)

SENATOR BRUNO: And Senator Breslin acknowledges and adds his welcome to those of you that are constituents out of Albany County.

So we're glad that you're all here and participating in this session. Which, with the efficiency of the Senate, will be a very short session, but very effective.

(Laughter.)

SENATOR BRUNO: And,

Mr. President, I believe that there is a resolution at the desk by the esteemed Senator Robach that has been previously adopted. I would ask that it now be read and recognize Senator Robach.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: By Senator Robach, Legislative Resolution Number 4199, memorializing Governor George E. Pataki to declare May 2006 as "Hepatitis C Awareness Month" in the State of New York.

ACTING PRESIDENT MORAHAN: Senator Robach.

SENATOR ROBACH: Yes, Mr. President. Thank you.

I am very happy to promote this resolution, along with the cosponsorship of many of my colleagues. Anything we can do to not only support those people who work in the field, the advocates, but also bring as much attention as we can to this, is very, very important.

When you look at the statistics of this growing viral infection, it is a little

bit staggering of what's happening here in New York, already approaching 158,000 New Yorkers affected by this. And when you look out into the outyears, by 2010 what could be projected will be pretty scary.

We spend a lot of time in this chamber on policies and resources that can make people healthier. I think it's very, very important that we're doing this resolution but also, even more importantly, that we are working with everyone in the field to try and diminish this or make it as tolerable as possible for all of our mutual constituency.

And I am very glad today -- I don't know if every one of them are here, but in the gallery, and if you want to stand when I call your name, we have a number of advocates and people that work in the field: Patricia VanReenen, Lillian VanReenen, Monica Rickert, Shari Newman-Foster, Matthew Ricker, Jason Foster, Colleen Cain -- I don't see Dr. Valenti, but if he's here we'll say his name; very active -- Edward Pierce and Martha Auster.

And so for them and all the people who work in the field, advocate on a daily basis, we are happy to join them here in this chamber today and do all we can to combat hepatitis C here in New York State.

Thank you for your advocation.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: We welcome the advocates here today. Thank you for attending.

Resolution 4199 was previously adopted on March 28th. Thank you.

(Applause.)

ACTING PRESIDENT MORAHAN: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time have the noncontroversial reading of the calendar.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 62, by Senator Young, Senate Print 5685A, an act to amend the Penal 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: Announce the results.

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 595, by Senator Farley, Senate Print 6396A, an act to amend the Public Officers 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, 48.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 770, by Senator Alesi, Senate Print 5543B, an act to amend the Correction Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 60th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 780, by Senator Winner, Senate Print 2749, an act to amend the General Municipal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of July next succeeding.

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 787, by Senator Marcellino, Senate Print 6739, 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: Those recorded in the negative on Calendar Number 787 are Senators Bonacic and Larkin.

Ayes, 48. Nays, 2.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 789, by Senator LaValle, Senate Print 6921, 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, 48. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 831, by Senator DeFrancisco, Senate Print 7012, an act to amend the Real Property Law and others.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 21. 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, 50.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 892, by Senator Padavan, Senate Print 2174, an act to amend the Criminal Procedure 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, 50.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 904, by Senator Wright, Senate Print 6715A, an

act to amend the Criminal Procedure 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, 50.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 907, by Senator Volker, Senate Print 7074, 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, 49. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 910, substituted earlier today by Member of the Assembly Ortiz, Assembly Print Number 9755, an act to amend Chapter 266 of the Laws of 1981.

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.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. To explain my vote.

This is a good bill, and it also raises the issue of extending the statute of limitations.

Recently I had a very successful and compelling hearing on the issue of clergy abuse and abuse by those in positions of power. We had very, very compelling testimony from victims, but we also had testimony from experts, academics and attorneys and professors of law, all of whom agreed that merely by extending or eliminating the statute of limitations would we then be able to pinpoint perpetrators and allow victims of abuse to have their day in court.

So I'm pleased that we're doing this bill, which extends the statute of limitations. But we also have a responsibility to extend the statute of limitations so those who have been victimized can have their day in court and we can stop the victimization of any more persons by people in a position of authority.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Duane.

Announce the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 912, by Senator DeFrancisco, Senate Print 7233, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I rise in support of this bill, called the Bill Leaf-Brandi Woods bill. And basically we've had two tragedies in Central New York very recently, where Bill Leaf, a reporter for WSYR, in his twenties, and Brandi Woods, a 15-year-old Girl Scout, delivering Girl Scout cookies -- not much older than the children that are here in the gallery today -- were both killed by drunk drivers.

In the Brandi Woods situation, the perpetrator received a one-to-three sentence and is about to be released. The other case

is still pending.

Two fine people. Bill Leaf was here reporting in Albany a couple of days before his death, a rising reporter, an incredible young man who was going to be national someday, there's no question. Brandi Woods, a young girl doing the right thing with a Girl Scout troop, just a life snuffed out.

Well, the penalties for DWIs, especially repeat offenders, were woefully inadequate, as can be seen by the sentence that the first individual got, in the Brandi Woods case. This bill intends to address that.

And I would hope that we would have unanimous support for this bill, because it increases penalties for people who have been convicted before of driving while intoxicated or driving while ability-impaired when they either seriously injure someone or kill them.

And I think by passing this bill -- and the Assembly sponsor is pushing to pass the bill as well -- that we can send a message out that it's not going to be tolerated. And even if you're not a major drinker, if you

happen to do the wrong thing some night and have a very bad result, injuring somebody seriously or killing somebody, you're going to jail. And you're going to jail for a long time.

There should be no more Bill Leaf and Brandi Woods stories. And hopefully a bill like this would help that occur.

So I vote aye, and I urge all of my colleagues to unanimously support this extremely important piece of legislation.

ACTING PRESIDENT MORAHAN: Thank you, Senator DeFrancisco. You will be recorded in the affirmative.

Call the roll.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you. To explain my vote, yes, Mr. President.

I'll be voting for this bill, which is going to increase the crime for driving while intoxicated. And it is terrible that we even have to pass such a bill and that such an awful tragedy caused us to take action on this issue. And I am incredibly sorry for the loss that the families have endured.

However, I would be remiss if I didn't raise the issue once again that we're dealing with problem drinking -- alcoholism -- here and the need for people to get substance abuse treatment when they need it.

Many New Yorkers can't afford substance abuse treatment or other help for mental illnesses, and that's why we need Timothy's Law.

So we're probably going to leave here this week without enacting Timothy's Law, and that is a horrible shame. We need to pass Timothy's Law. We need to do it right away. We need to get people in this state the mental health services that they need and deserve.

So while I'm voting yes on this, I am hopeful that very soon we will be voting yes on Timothy's Law as well.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Duane.

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 919, by Senator Wright, Senate Print 2532, an act to amend the New York State Defense Emergency Act.

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.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 939, by Senator Spano, Senate Print 5214, an act to amend the Executive 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, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 977, by Senator Skelos, Senate Print 7179, 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 981, by Senator Skelos, Senate Print 7245, an act to amend the Nassau County Civil Divisions

Act.

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.

Senator Skelos, that completes the noncontroversial reading of the calendar.

SENATOR SKELOS: Thank you, Mr. President. I believe we have completed the entire calendar.

Is there any further business at the desk?

ACTING PRESIDENT MORAHAN: Yes, we do.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Skelos, on page number 36 I offer the following amendments to Calendar Number 608, Senate Print 6831, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Monday, May 15th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MORAHAN: There being no further business, the Senate stands adjourned until Monday, May 15th, 3:00 p.m., intervening days to be legislative days.

(Whereupon, at 11:29 a.m., the Senate adjourned.)