NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 6, 2000

3:15 p.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 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 today to give the invocation is the Reverend Peter G. Young, from Blessed Sacrament Church in Bolton Landing, New York.

REVEREND YOUNG: Let us pray.

Dear God, as we enjoy this beautiful March sunshine and Your gift of good fortune, we continue to seek Your love and guidance on our Senators and their staffs. We gather to dedicate our representative efforts for the benefit of our New York State citizens with Your blessings and love.

We ask You this in Your name. Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate,

Saturday, March 4th, the Senate met pursuant to adjournment. The Journal of Friday, March 3rd, 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.

Message from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Hoffmann, from the Committee on Agriculture, reports:

Senate Print 1824, by Senator Kuhl, an act to amend the Agriculture and Markets Law;

1888, by Senator Padavan, an act to amend the Agriculture and Markets Law;

2728, by Senator Kuhl, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law;

And 2729, by Senator Kuhl, an act to amend the Agriculture and Markets Law.

All bills ordered direct to third

reading.

THE PRESIDENT: Without objection, all bills reported direct to Third Reading.

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 Maltese, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 5595A.

THE PRESIDENT: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President. Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Seward, page 9, Calendar Number 85, Senate Print 5207;

Senator Nozzolio, page number 12, Calendar Number 158, Senate Print Number 5108;

Senator Nozzolio, page number 19, Calendar Number 248, Senate Print Number 6282A;

Senator Marchi, page number 27, Calendar Number 346, Senate Print Number 2618;

And Senator Meier, page number 10, Calendar Number 103, Senate Print Number 5853.

I now move that these bills retain their place on the order of third reading.

THE PRESIDENT: So ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 22, by Senator Volker, Senate Print 103A, an act to amend the Penal Law, in relation to loitering.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 43, by Senator Alesi, Senate Print 3485A, an act to amend the State Administrative Procedure Act, in relation to adjudicatory proceedings.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 99, by Senator Hannon, Senate Print 6097A, an act to amend the Public Health Law and the Insurance Law, in relation -

SENATOR DUANE: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 206, by Senator Skelos, Senate Print 1075, an act to amend the Social Services Law -

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 254, by Senator Hannon, Senate Print 813, an act to amend the Criminal Procedure Law, in relation to imposing plea bargaining limitations.

SENATOR CONNOR: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 306, by Senator McGee, Senate Print 2451, an act to amend the Vehicle and Traffic Law, in relation to requiring school bus and other motor vehicle drivers involved in personal injury accidents involving school buses.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first day of September.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 328, by Senator Fuschillo, Senate Print 561, an act to amend the Vehicle and Traffic Law, in relation to requiring certain information on disabled children.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 329, by Senator Fuschillo, Senate Print 562B, an act to amend the Vehicle and Traffic Law,

in relation to criminal-history checks.

THE PRESIDENT: Read the last -

SENATOR DUANE: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 330, by Senator Goodman, Senate Print 790, an act to amend the Vehicle and Traffic Law, in relation to restricting bus drivers from working with suspended licenses.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 331, by Senator Bruno, Senate Print 908, an act to amend the Vehicle and Traffic Law, in relation to the disqualification of a bus driver in certain instances.

SENATOR CONNOR: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 332, by Senator Bruno, Senate Print 909A, an act to amend the Vehicle and Traffic Law, in relation to drivers of small school buses.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 333, by Senator Johnson, Senate Print 977A, an act to amend the Vehicle and Traffic Law and the Education Law, in relation to the receiving and discharging of passengers.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect September 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 334, by Senator Skelos, Senate Print 1020, an act to amend the Vehicle and Traffic Law, in relation to requiring school bus drivers to insure all passengers have left the bus prior to exiting.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 335, by Senator Trunzo, Senate Print 1076B, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 336, by Senator Trunzo, Senate Print 3278, an act in relation to requiring the Commissioners of Motor Vehicles, Transportation and Education to develop a uniform definition.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 337, by Senator Trunzo, Senate Print 4753A, an

act to amend the Vehicle and Traffic Law and the Education Law, in relation to instruction for school bus drivers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 338, by Senator Trunzo, Senate Print 5561, an act in relation to requiring the Governor's Traffic Safety Committee to study the effects.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 345, by Senator Marchi, Senate Print 1639B, an act to amend the Education Law and the Vehicle and Traffic Law, in relation to prohibiting standing passengers on school buses.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: Senator Gentile.

SENATOR GENTILE: Yes, Madam President, just to explain my vote on Number 345, Calendar Number 345.

I just note that my good colleague from Staten Island, Senator Marchi, is the sponsor of this bill, along with Assemblyman Vitaliano in the Assembly, also a member of the Staten Island delegation. It looks as if today is a school bus safety day.

And I just want to state for the record not only my vote in the affirmative on this bill but on the others. And given the

circumstances as it is in the Senate, had I the opportunity to go on as a sponsor of this bill, I would have been a sponsor in the Senate.

But nevertheless, I want to have Senator Marchi know and the people of Staten Island know that I am fully in support of this measure.

THE PRESIDENT: Senator Gentile, you will be so recorded as voting in the affirmative.

The bill is passed.

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

SENATOR SKELOS: Madam President, if we could take up the controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 99, by Senator Hannon, Senate Print 6097A, an act to amend the Public Health Law and the Insurance Law, in relation to health maintenance organization.

SENATOR DUANE: Explanation,

please.

THE PRESIDENT: Senator Hannon, an explanation has been requested.

SENATOR HANNON: This bill is a technical amendment to a chapter that was signed last year. It just makes sure that some of the provisions in regard to the Insurance Law for the hospitals covered by the bill would be properly adhered to.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 206, by Senator Skelos, Senate Print 1075, an act to amend the Social Services Law and the Family Court Act, in relation to proof of a neglected or abused child.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Star the bill.

THE PRESIDENT: The bill is withdrawn.

THE SECRETARY: Calendar Number 254, by Senator Hannon, Senate Print 813, an act to amend the Criminal Procedure Law, in relation to imposing plea bargaining limitations.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Hannon, an explanation has been requested.

SENATOR HANNON: Yes, Madam President.

This amends the Criminal Procedure Law to prevent an offense defined as a pedophilic offense -- and which is a felony - from being plea-bargained down to a misdemeanor.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Sorry, Madam President. With all apologies, it was incredibly difficult to hear that. I'm

wondering if the sponsor would repeat that. There was a lot of background noise, and I couldn't hear it.

THE PRESIDENT: Senator Hannon, could you repeat your explanation, please.

And I'll ask that (striking gavel).

SENATOR HANNON: The bill would take certain offenses, felony offenses that are defined in the Penal Law, separated out by the bill, and call them pedophilic offenses, and prevent those offenses from being plea-bargained down to a misdemeanor.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Madam President, would the sponsor yield to a few questions?

THE PRESIDENT: Senator Hannon, will you yield for two questions?

SENATOR HANNON: Two questions? Whatever the number is, yes.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: Thank you, Madam President. I actually said "a few."

THE PRESIDENT: Well, you had that authorization. Go ahead.

SENATOR DUANE: Two would be a couple. "A few" is more.

I'm wondering if the sponsor shares the belief that district attorneys may need to have some leeway in deciding what plea should be put forward and whether or not there would be more flexibility in having a plea bargain. And that we might be better served to trust district attorneys to have that leeway.

SENATOR HANNON: District attorneys, in implementing their discretionary authority, do so in light of the public policy that we set on a statewide basis.

And in this case, I believe this would be a certain statement that a limitation of that general ability should be put in law.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: Is it not true, though, that there are times when a plea is used because though a defendant may have committed a terrible, terrible crime which we

believe should be punished, that the evidence may not be strong enough, particularly in light of what the person that had been perpetrated upon, or the child who was perpetrated upon, in terms of what testimony they may give may not be strong enough to get a felony, and thus a lesser charge, in a district attorney's opinion, may be a charge which could stick with the testimony which may be elicited from a child?

SENATOR HANNON: The premise inherent in your question is something I reject. I believe that far too often under such an excuse, but really because of the pressure of cases, they take plea bargaining.

And I think in this case the protection of our youth demand that there not be such a reduction in sentence.

SENATOR DUANE: Thank you, Madam President. If I may speak on the bill.

THE PRESIDENT: On the bill, Senator Duane.

SENATOR DUANE: I'm very concerned about taking away the discretion from district attorneys when prosecuting these

terrible crimes. I'm very concerned that there may be a time or there may be now occurrences when a district attorney, because they are forced to only go for a felony, would have to drop the case altogether. And I don't believe that that is in the best interest of justice.

So because of these reasons, I'm encouraging my colleagues to vote no on this, to trust district attorneys to get the best possible case prosecuted and to get the highest level of justice and punishment put forward in these dreadful, heinous cases.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 329, by Senator Fuschillo, Senate Print 562B, an act to amend the Vehicle and Traffic Law, in relation to criminal-history checks on school bus attendants.

SENATOR DUANE: Explanation, please.

SENATOR FUSCHILLO: Thank you, Madam President.

THE PRESIDENT: Senator Fuschillo, an explanation has been requested.

SENATOR FUSCHILLO: Thank you, Madam President.

Current law enacted in 1985 required school bus drivers to have criminal background checks -- but only permitted, did not require, the same for school bus attendants.

This legislation would mirror that and require background checks for school bus attendants.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield to a few questions?

THE PRESIDENT: A few, rather than two, Senator Duane?

SENATOR DUANE: It's actually three.

THE PRESIDENT: Senator Fuschillo, would you yield for three questions?

SENATOR FUSCHILLO: I'd be happy to.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: Thank you very much.

I'm wondering why it is that in these background checks that the bus drivers will have to pay for the service.

SENATOR FUSCHILLO: The school bus attendants, not the bus drivers.

SENATOR DUANE: Excuse me.

SENATOR FUSCHILLO: That's the way it was written originally, Senator, for school bus drivers. We've just mirrored the legislation and changed the law from "permitted" to "require."

And a review of the 2500 school bus

attendants that there are in New York State have shown that the school districts have picked up the cost.

SENATOR DUANE: Through you, Madam President.

SENATOR BRUNO: Go ahead, Senator Duane.

SENATOR DUANE: Does the sponsor know whether or not the state has traditionally picked up the fee for these kind of background checks?

SENATOR FUSCHILLO: For school bus drivers? School bus drivers? Yes, they have.

SENATOR DUANE: And do you know when it is that there was a shift in policy towards school bus personnel being asked to pay the freight, so to speak?

SENATOR FUSCHILLO: You're confusing me. School bus drivers or school bus attendants?

SENATOR DUANE: Well, now I'm talking about a general policy for anyone that works in a -

SENATOR FUSCHILLO: No, I don't

know.

SENATOR DUANE: If the sponsor will continue to yield.

THE PRESIDENT: I believe this is your third question. Go ahead, Senator Duane.

SENATOR DUANE: Uh-oh.

Does the sponsor know how much the fee is and how many school districts in New York State have implemented this policy?

I combined it into an A and a B, 3A and 3B.

SENATOR FUSCHILLO: The fee is $79 for a criminal background check.

And the majority of -- we have not contacted all the school districts throughout New York State that are hiring school bus attendants, but our review has showed approximately 90 percent of them are absorbing the cost.

So there's no cost. There was no cost that we saw to any applicant who wants to be a school bus attendant.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 2. Senators Duane and Smith recorded in the negative.

THE PRESIDENT: The bill is passed.

The record will reflect that Calendar Number 206, Senate Bill Number 1075, has been starred by the sponsor.

The Secretary will read.

THE SECRETARY: Calendar Number 331, by Senator Bruno, Senate Print 908, an act to amend the Vehicle and Traffic Law, in relation to the disqualification of a bus driver in certain instances.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR STAVISKY: Explanation,

please.

THE PRESIDENT: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Just lay the bill aside temporarily.

Is there any housekeeping at the desk?

THE PRESIDENT: The bill has been laid aside temporarily, Senator.

Senator, there's a privilege resolution by Senator LaValle.

SENATOR SKELOS: I don't think we're quite ready for that yet.

THE PRESIDENT: There's nothing other than that, Senator Skelos.

SENATOR SKELOS: We'll stand at ease.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:35 p.m.)

(Whereupon, the Senate reconvened at 3:37 p.m.)

SENATOR BRUNO: Madam President.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Can we at this time call up Calendar Number 331.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 331, by Senator Bruno, Senate Print 908, an act to amend the Vehicle and Traffic Law, in relation to the disqualification of a bus driver in certain instances.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Bruno, an explanation has been requested.

SENATOR BRUNO: Madam President and colleagues, this is a bill that we have done before in this chamber. And it really calls for the disqualification of a bus driver who tests positive for the use of drugs.

And I know there's a concern that someone might inadvertently be tested positive. And for a person to lose their license is a very serious thing, and I recognize that.

But if you take a look at the way that testing is done, it pretty much

eliminates the possibility of errors. Because when there's an infraction, an alleged infraction, a specimen is taken, a urine specimen. It is separated into two parts. One part is put in reserve, and the other part is sent for testing.

If it tests positive, then the employee is notified that that's the case, and the employer is not. And the employee has 72 hours to petition and appeal that there's some error. Because sometimes they may be taking medication or something that could affect them in a negative way.

If they want to appeal, the second part of the same specimen is then sent to a totally independent and separate lab. If that comes back positive, the employer is notified, and they are then dismissed.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, if the sponsor would yield to a couple of questions -- a few questions, excuse me.

THE PRESIDENT: Senator Bruno,

will you yield to a few questions?

SENATOR BRUNO: Yes, Madam President.

SENATOR SCHNEIDERMAN: Through you, Madam President.

THE PRESIDENT: Go ahead, Senator.

SENATOR SCHNEIDERMAN: I appreciate the description of the two-part sampling process. Could the sponsor identify where in the bill that process is specified to require that you follow the procedure in dividing the sample in two parts that's provided here?

SENATOR BRUNO: Pardon? Is it required in the law?

SENATOR SCHNEIDERMAN: Where in the bill does it require this procedure you just talked about?

SENATOR BRUNO: It is federal law that that procedure takes place. And what we're doing dovetails with the federal law so it becomes one.

So you are correct in that it is not specified, but it is present in federal

law.

SENATOR SCHNEIDERMAN: And can I ask what -- through you, Madam President - what federal law provides for that? Because I'm unaware of it, and it's not cited in the memos that I've got on the bill.

SENATOR BRUNO: I believe it's Title 49, but don't hold me to that. We might ask Senator Connor if he might be more of a - I think it's Title 49.

Senator Onorato agrees with me, so it must be right.

SENATOR SCHNEIDERMAN: Through you, Madam President.

THE PRESIDENT: Thank you, Senator.

SENATOR SCHNEIDERMAN: And coaching from over here not allowed, George.

I have here Part 382 of Title 49, which are the regulations at issue. And I will be glad to hand them along. They do not provide for the two-part test that you've just identified, articulated, and which frankly sound likes a pretty good system to me.

So I am -- if there's some other

provision that we should be looking at, as far as I can tell, it's not in the state law and it's not in the federal regulations that have been cited. Is there someplace else we should look?

SENATOR BRUNO: Many times in this chamber we depend on our very learned counsel. My counsel is the most learned.

(Laughter.)

SENATOR BRUNO: And my most learned counsel tells me that it is definitely in the federal law, and that's why other than three or four of your colleagues last year supported this legislation.

SENATOR SCHNEIDERMAN: Well, through you, Madam President, I'm not going to get into the dispute about my counsel being more learned than yours.

But let me move on to another issue. You've identified a two-part process which sounds pretty good, based on a single sample. What about the innocent bus driver where a sample itself is flawed? You're talking about dividing up a sample. But if the sample is flawed, is there any remedy in

this bill or the federal regulations for that bus driver?

You just ate a bunch of rum raisin ice cream, and for some reason it shows up positive in the sample. Is there any remedy for that?

SENATOR BRUNO: I believe that with the 72-hour time frame that this calls for, if an individual that has been accused is aware and will seek whatever remedy that that individual can -- whether it's a physician that had prescribed, or whatever the resource might be -- that they can avail themselves of whatever protection they think is appropriate.

And again, Senator, I share your concern. This is not intended to put bus drivers who are innocent out of a job. But I'm sure, Senator, that you agree that our most valuable possessions are our youngsters. And we have had instance after instance in this state where we have had accidents, we have had people who have been tested positive with drinking, they end up back on the job, they've been tested positive with drugs, they end up back on the job, only to hurt young

people or potentially hurt them again. That's what this is all about.

SENATOR SCHNEIDERMAN: Through you, again, Madam President.

I am -- did not -- again, I -- it may be in there, I don't see it, either in - if the Senator could identify where in this bill or in the federal regulations the 72-hour provision is found. Because I don't see that in either of them.

SENATOR BRUNO: I believe it's in Part 382 of the regulations.

SENATOR SCHNEIDERMAN: Through you, Madam President. Actually, let me, speaking on the bill, thank the sponsor -

SENATOR BRUNO: Thank you.

SENATOR SCHNEIDERMAN: -- and Senator Onorato as well.

The -- on the bill. I have Part 382 of the regulations here. I think Senator Bruno is correct in stating the obvious, nobody wants anyone under the influence of drugs or alcohol driving a school bus. I have a daughter in private school. That's the last thing anybody wants.

However, I think this is something we should be able to fix. This came up last year, and I don't think it's been corrected since then. I honestly do not believe that the provisions that you have identified are in either this bill or in the federal regulations. I think it's something that we should deal with.

Furthermore, in the current regulations, anytime a school bus driver fails a random drug or alcohol test, he immediately is referred to a substance abuse treatment program and is taken off the job automatically for six months, has to undergo extensive additional random drug and alcohol tests, and has a provision to challenge the sample and the finding.

I think that this bill, while well-intentioned, can do a lot of unintentional harm. I think that the provisions of it that would do the harm can be fixed. And I do think that we should fix it before we pass this legislation.

Thank you.

THE PRESIDENT: Read the last

section.

Senator Stavisky.

SENATOR STAVISKY: I just want to explain my vote.

THE PRESIDENT: Go ahead, Senator.

SENATOR STAVISKY: I'm going to vote no. The sponsor was asked if there were any provisions for an individual who either failed or obtained a false positive reading. And the lack of a second-chance opportunity to reevaluate the false positive reading troubles me very much.

If there were something in the bill that provided for a remedy, for an appeals process, then I would be happy to vote for it, because I think we all agree on the need for this legislation. But I vote no.

THE PRESIDENT: Senator, you will be recorded as voting in the negative.

Read the last section.

Senator Lachman.

SENATOR LACHMAN: Thank you, Madam Chair.

On this bill, my problem, Senator

Bruno, is I don't think it goes far enough. In analyzing a measure such as this, there is a possibility -- and I think it exists here - that what Senator Bruno is attempting to do is a very worthwhile goal and objective. But there's more to it than just punitive measures.

Over the last few months, Senator Oppenheimer -- who as you know is the ranking member of the Education Committee -- and I have sent questionnaires, with the aid of our distinguished Senate Minority staff and counsel, to approximately -- oh, I would say, approximately 750 school districts in the state of New York.

Surprisingly -- and for anyone who sends out a survey in academic life, if you get a 3 or 5 or 10 percent return, it's considered to be excellent. We received a 75 percent return from school boards throughout the length of the state. We also included 150 bus companies in this response.

And there is no question that the issue that you raise is important. And I am not going to oppose your bill. But I am only

saying that there are other things and other issues, of a nonpunitive nature, that could lead to greater safety for our most precious possession, our children.

Now, the school boards have made a suggestion -- and through you, Madam Chair, I would like to have the Majority Leader's opinion on the suggestion -- of the possibility -

THE PRESIDENT: Senator Bruno, do you yield to a question?

SENATOR BRUNO: Yes, Madam President.

THE PRESIDENT: All right. Go ahead, Senator Lachman. Do you have a question?

SENATOR LACHMAN: -- the possibility of dividing the commercial driver's license and separating a driver of a school bus from the driver of a truck.

That does not exist today. Many of these school boards responded that there are insufficient funds available to hire competent school bus drivers. And it's a different issue from that of truck drivers.

SENATOR BRUNO: Thank you, Senator. And I think that's something that we ought to look at. As you noted, that is not on this particular bill, but it's something additional that we can do to help provide for the safety of our children.

As you know, and we agree with you, there are other things we can do that are nonpunitive but helpful. I think Senator Trunzo's bill that passed earlier relates to training, additional training, indoctrination of safety measures for drivers. That's a very positive thing.

So I agree with you, and I think that's something that we ought to look at and take a very serious look at.

SENATOR LACHMAN: Through you, Madam Chair, will the Majority Leader yield for one more question?

SENATOR BRUNO: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Lachman.

SENATOR LACHMAN: In light of the evidence of this report and this study -- and

it will be made available to the Majority leadership -- is it not wiser for us to perhaps have a larger bill where not only one test but several tests leading to the safety and security of our children are included?

SENATOR BRUNO: Senator, as you know, we had hearings all over the state on this issue of school bus safety. I think it was one of the most successful things that we have done in terms of getting input. And there were more things that people had recommended, recognized that we ought to contemplate and look at. And we're going to continue to do that.

But today we are dealing with these 14 bills that you have before you. And I am concerned with this particular one which passed this house before, and you indicate that you will support, and I would like to conclude the discussion on this, take action on this, and then at your leisure, ours, and others', discuss the merits of other proposals.

SENATOR LACHMAN: Thank you.

SENATOR BRUNO: Thank you,

Senator.

SENATOR LACHMAN: Thank you.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, Senator Lachman really spoke to most of the issues that interested us. And we do want to share this with you, and we are pleased to hear that the Majority Leader is going to look at some of these suggestions that we have, because we did get a wonderful response.

And I guess the main issue really was it's so hard to find workers, to find people who qualify. And the point that was brought up by Senator Lachman, which is we ought to have a separate licensing procedure -- I'm not talking loud enough -- we have to have a separate licensing procedure for them, because the commercial driver's license, the requirements, are quite different whether you're a truck driver or a school bus driver.

Another problem we found is low wages. And we have seen that some of the school districts have tried to advertise in a

variety of ways, from radio to newspapers, and they are not having much success. They also have tried television.

And therefore, we have to do something to improve the -- I think the pay and the conditions. Part of the problem was also that this work is part-time. And in this economy where we have so few people who are not fully employed, it's very hard to find part-time workers. Perhaps we could find some work that they could do in conjunction with this part-time work of driving the school bus.

But these are just a couple more of our ideas. And I'm happy that you'll be looking at it, and I will be supporting this bill.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

THE PRESIDENT: Senator Hevesi, to explain your vote?

SENATOR HEVESI: No, Madam President, I have a question for the sponsor, if he would be so kind as to yield.

THE PRESIDENT: Senator Bruno, will you yield for a question?

SENATOR BRUNO: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Hevesi.

SENATOR HEVESI: Thank you.

Senator Bruno, I voted for this legislation last year, and I intend to vote for it again today. I wish there were some more safeguards in the bill, but I very much like the concept here and what you're trying to do.

I want to bring a situation to your attention that I -- I don't sit on the Senate Transportation Committee, or I would have done it in the committee. But as it directly pertains to this bill, there is a loophole currently in the law where, if we knew about it in time, I believe we would have been able to amend this bill. And I would even ask if you would consider amending this bill for the following situation.

It happened two months ago in a courtroom in Kings County, where a gentleman

who was a school bus driver in the New York City public school system was arrested on a domestic violence charge. And during the course of the trial, based on the circumstances of his arrest, it came out that he was a regular user of marijuana, including on days when he was transporting students to and from school, admittedly by evidence that was brought into the court and by his own testimony.

But the charges on which he was ultimately convicted did not mandate his dismissal as a school bus driver, and the district attorney's office was unable, under current law, to inform the Board of Education of this individual's propensity to use marijuana.

So I would suggest to you that we should have something in the law which suggests that if that kind of information is available, that that individual be subject to a drug test immediately, by whatever school district that bus driver serves in, so that we can prevent -- and this gentleman is out there today, I'm convinced, transporting students,

though he used to smoke marijuana and probably still does.

I'd just like to get your comment on that. It's a bad situation. I think we can fix it.

SENATOR BRUNO: I agree with you, that's a terrible situation.

And of course this legislation becoming law, that individual would not be driving the bus, wouldn't be able to drive the bus, because they would lose their license - and then whatever other criminal penalties would ensue from the use of drugs, illegal use of drugs. That person might be a maintenance person, might still work for the school district, but would not be able to drive a bus.

So I think that's why it's important that we have the support in the other house, see if we can't get this passed and get it into law.

SENATOR HEVESI: Madam President, one following question.

THE PRESIDENT: Senator Bruno, will you yield for an additional question?

SENATOR BRUNO: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Hevesi.

SENATOR HEVESI: Senator Bruno, the situation that I just outlined, the problem with that situation is the individual was never drug-tested. And there is no compelling authority to make that individual undergo a drug test, even though he had admitted in open court.

That's the problem that I'm seeking to address here.

SENATOR BRUNO: He was convicted, I thought you said. Wasn't he convicted?

SENATOR HEVESI: Of a non-drug offense. A domestic violence charge that does not warrant his testing for narcotics or his dismissal as a school bus driver.

So he very well likely is out there driving kids today. That's the problem.

SENATOR BRUNO: I understand now what your question is. And that particular situation, you're right, isn't covered in what we're doing. But it covers specifically a

driver who may have been in an accident or was randomly tested.

And that's the situation that we should look at, as we're looking at so many other things.

SENATOR HEVESI: Thank you.

SENATOR BRUNO: We're going to be in session, I hope, Madam President and Senators, until at least June 15th, which is our date to adjourn, I think on the 16th. And so we'll have plenty of time to talk about and look at some other meaningful things to ensure the safety of our young people.

So we welcome your support.

SENATOR HEVESI: Thank you.

Madam President, briefly on the bill.

THE PRESIDENT: On the bill, Senator Hevesi.

SENATOR HEVESI: Thank you.

I commend Senator Bruno on this legislation. I support it, though again I wish there were more safeguards in there. And I'm very much pleased that you will entertain possible legislation to close this loophole,

which right now is a glaring loophole in the law and is quite obviously compromising the safety and security of schoolchildren in New York State.

This is one of those clear-cut examples: Here's the problem, here's the solution. Let's do it and get it done.

Thank you, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I promise the president I'll be extremely brief.

This is the perfect kind of bill, this whole package of bills, the 14 bills that we did, that we should send off to a joint conference committee. I know that many of my colleagues have signed a joint conference committee letter. It ought to be a part of law.

These bills, which we seem to do year after year after year, which embody the ideas that Senator Hevesi talks about, Senator Bruno talks about, they're a whole batch of great ideas to protect kids that get on school

buses. Why can't we make them laws? Let's have a joint conference committee about school bus safety, let's do it, let's get it done this year before the 16th of June. We can do it if we're prepared to have joint conference committees that really work.

I'd welcome Senator Bruno telling the Speaker that we'll have a joint conference committee about school bus safety. Let's take the ideas and make them law. The only way to do it is to do it through a joint conference committee. It's easy.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 331 are Senators Duane, Markowitz, Santiago, Schneiderman, Smith, and Stavisky. Ayes, 45. Nays, 6.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: I believe that completes the calendar for today. And if we could go back to motions and resolutions, there's a privilege resolution, 3256, at the desk, by Senator LaValle. May we please have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: You're correct, Senator, that does complete the reading of the controversial calendar.

Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator LaValle, Legislation Resolution Number 3256 welcoming the members of a delegation representing the University of Messina, Sicily, upon the occasion of their visit to the New York State Senate on Monday, March 6, 2000.

"WHEREAS, It is the sense of this Legislative Body to recognize those organizations and institutions which represent the rich cultural heritage of the citizens of the State of New York; and

"WHEREAS, This Legislative Body is honored to welcome the members of a delegation representing the University of Messina, Sicily, upon the occasion of their visit to the New York State Senate on Monday, March 6, 2000; and

"WHEREAS, Today, all over Italy there is a strong interest in Italian-American affairs. Italians have become interested in the social, economic, and political achievements of Italian-Americans and are taking steps to strengthen the cultural ties with them.

"In February 1999, under the initiative of Dr. Marcello Saija, a professor at the University of Messina, the Museum on Emigration was inaugurated on the island of Salina. It was an important event for Sicily and the surrounding small islands because it offered the general public the occasion to begin reexamination of Italian emigration, a social phenomenon that profoundly affected life in southern Italy.

"A delegation from the University of Messina has traveled to New York to explore

possibilities for student exchanges and cooperation for cultural enrichment programs, as well as support for the collection of material for the Museum on Emigration in Salina; and

"WHEREAS, The delegation from the University of Messina, led by Professor Gaetano Silvestri, President of the University, includes the following members: Professor Gaetano Silvestri, President of the University of Messina and one of Italy's most accredited scholars of constitutional law, well-known abroad for his studies on the electoral systems. On several occasions, he was appointed by the Italian Parliament to the Superior Council of the Justice and to several committees for institutional reforms. Today he is a scholar of constitutional law for the Law School at the University of Messina; and

"WHEREAS, Professor Marcella Fortino Silvestri, wife of the president, is a scholar in family law at the University of Messina and author of several scholarly works on this subject which have been adopted as texts at several Italian law schools. She is

now Director of the Juridical Studies Program in the Department of Political Science at the University of Messina.

"Professor Giuseppe Butta, Dean of the Political Science Division at the University of Messina, is a well-known scholar in political philosophy. He has done much research on the American constitutional system and has many contacts with universities throughout the United States. His recent visit to the United States was to present the English edition of Rosmini's writings. He is a scholar and full professor of the History of Political Doctrines at the University of Messina.

"Dr. Silvana Broccio Butta, wife of the dean, teaches Italian literature at the Scientific 'Liceo' Salvatore Quasimodo of Messina. She is also very much involved in environmental issues and, on this matter, is associated with various agencies throughout Italy; and

"WHEREAS, Professor Marcello Saija, Director of the International Political Studies Program at the University of Messina,

an historian, has done extensive research on the Yugoslavia of the 1900s. He is also a scholar of the crisis of the 'Italian liberal state' and the advent of Fascism. His most famous publication is a volume on the role of the Italian prefects during the political crisis that brought the Fascist regime. Currently he holds the chair of History of Political Institutions at the University of Messina and also directs the University's Program in Social Services in the city of Modica (Ragusa); and

"WHEREAS, Dr. Laura Saija, daughter of Professor Saija, holds a degree in civil engineering and is interested in urban problems; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to welcome the members of a delegation representing the University of Messina, Sicily, upon the occasion of their visit to the New York State Senate on Monday, March 6, 2000; and be it further

"RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted

to the members of the delegation from the University of Messina, Sicily."

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: Thank you, Madam President.

Last year I had the very rare opportunity to travel to Sicily, with Assemblyman DiNapoli, to visit the University of Messina and other parts of Sicily. It was a trip that I was quite excited about, because my grandfather came from Messina.

And I didn't realize how much of an emotional and uplifting and wonderful trip it was to visit Messina and be in various places and see the customs and the foods that our family had adopted once my grandparents had gotten to this country.

The University of Messina is a comprehensive university and is well thought of in Italy.

I was accompanied on that trip by Dr. Mario Mignone, who is the architect of the Center for Italian Studies Program at the State University at Stony Brook. Professor Mignone was very helpful in bringing about

bringing the parties together so that we could talk about student exchanges, cultural exchanges.

But there was one other piece. And during that trip we were accompanied by Peter Galluzzo from my district, who has a home on Salina, and whose family had a rather large home there. And Mr. Galluzzo donated that home to the university, and a museum has been set up to study emigration.

It is very important that we as members -- and I know many members in this chamber travel to other places to establish relationships, exchange programs, and so forth.

I would like to introduce, as we welcome this delegation, Professor Giuseppe Butta. Professor Butta, if you'll just - Professor Marcello Saija. Marcello. Professor Silvana Broccio Butta. Dr. Laura Saija. And Dr. Literio Bonina.

We welcome you to our state; we welcome you to the Senate chamber where we do business for the people that we represent in New York State.

And we hope that your visit here will further bond and bring relationships and cultural exchanges, open avenues and opportunities for our students, and to make sure that the museum that we started in the house of Peter Galluzzo's family will prosper and expand, and that people here who have families who came to this country from Sicily might have various pictures and other things that they will contribute to the museum.

I know that one of our very esteemed Senators would also -- and the longest-serving senator, state senator in the country, in the United States, would also like to welcome you. And I yield to Senator Marchi.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Madam President.

(In Italian.) Although we are members of several parties, at this moment we do not subscribe to any party; in fact, we are unanimous in welcoming you with joy in our chamber. We want you to have a pleasing and fulfilling stay here in this country, and I hope that you will be returning many times.

I have been in your country, and I have also been to the Strait of Messina, where I was able to observe the reconstructed city that had suffered a tremendous earthquake back in 1908. You have rebuilt that city well.

I know that in your neighboring territory you have the town of Syracuse, which gave us that great historical figure Archimedes and the endless process that Messina and indeed all of Sicily has contributed so abundantly to the well-being of this world in arts, sciences, cultural developments, literature, philosophy, and in fact every ennobling human activity.

I also wish personally that you will ultimately complete the famous proposed bridge or tunnel to unite Sicily with the mainland. Even though there may be some temporary dislocations, my judgment is that it would be widely received with great pleasure.

In any event, I want you to enjoy your stay here in America. I have also visited Sicily on numerous occasions and anticipate the pleasure of returning often.

I believe I express the unanimous

sentiment of everybody in this chamber, including our beautiful Madam President, that we will also see each other early and often.

THE PRESIDENT: Senator Skelos.

Thank you, Senator Marchi, for your eloquent words.

(Laughter.)

SENATOR SKELOS: Madam President, I just -- I missed part of it. Could the stenographer please read that back for us?

(Laughter.)

THE PRESIDENT: So ordered.

(Laughter.)

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, on behalf of the New York State Conference of Italian-American Legislators, I'm Senator Onorato, I'm the president.

And two years ago, we did make a wonderful trip to Sicily with our delegation. And I would like to welcome you here to the Senate chamber.

And I hope that you were able to get some of the conversation that took place on the last bill that we took. It happened to

be about our schoolchildren and how we wanted to protect them from bus drivers who are using drugs.

So I understand a little later on we are going to be meeting with you, we're hosting a little dinner.

And again, I want to welcome you to America and to the New York State chambers. Ben venuto.

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: I would like to open up sponsorship of the resolution to the members of the chamber.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, with the consent of the Minority, we'll put everyone on the resolution. If you do not wish to sponsor it, please notify the desk.

THE PRESIDENT: All right. All those who do not wish to be included in this resolution should notify the desk.

SENATOR SKELOS: And then notify Senator Marchi.

THE PRESIDENT: In English.

On the resolution. All those in

favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is passed.

And as President -- go ahead. Go ahead, Senator Morahan.

(Applause.)

THE PRESIDENT: On behalf of the Senate, without question -- I don't know whether I can express it as eloquently as Senator Marchi has. There's no way of my knowing. But I want to welcome you here, wish you a cordial visit, and our very best wishes to you in your endeavors.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

THE PRESIDENT: No, Senator, there is not.

SENATOR SKELOS: There being no further business to come before the Senate, I move we adjourn until Tuesday, March 7th, at 3:00 p.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Tuesday, March 7, 3:00 p.m.

(Whereupon, at 4:15 p.m., the Senate adjourned.)