ALBANY, NEW YORK

May 4, 1998

3:00 p.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S.

ACTING PRESIDENT MARCELLINO: The Senate will come to order.

I'd ask everyone present to please rise, including in the balconies, and repeat the Pledge of Allegiance.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

We thank you in the balcony for the help.

The invocation today will be given by the Reverend John A. Nelson, of the First Congregational United Church of Christ in Gloversville. Reverend?

REVEREND JOHN A. NELSON: Thank you, Senator.

Ladies and gentlemen, please join me in a spirit of prayer.

God of our fathers and mothers, since the beginning of memory, You call us together to remember and to praise You and since the beginning of time You gather us together to build ways of living together that may honor You and Your vision of a better world. You hold up images of Your will for

righteousness, a human community where all have food and shelter, a city where every woman, man and child knows their own dignity, a nation at peace.

The vision is so great, and it is an audacious thing we do in this chamber to turn to You in prayer. It is audacious because we are more accustomed to finding ways to use our own power than to seek Yours, but for a moment, we pray, come to us. Set aside our agendas and give us Yours.

Loving and creating God, the women and men who assemble in this hall are charged with an awesome task. Give them wisdom and strength that they may become Your hands. Give them wisdom to see where suffering and brokenness have become the people's food, and give them grace to respond. Give them strength to treasure the lives and dreams of the many citizens whom they represent. In the thick of competing interests, we pray for the courage to discern better ways of building your realm. Empower every one of us with Your spirit, a spirit of deep and true compassion that knows our

deepest struggles and yet persistently offers us a vision of Shalom, Your world, a world within our reach, when love and justice rule our lives. Calling Your name in our hearts, we pray. Amen.

ACTING PRESIDENT MARCELLINO: Thank you. Thank you very much.

We'll have the reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 3rd. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Saturday, May 2nd, was read and approved. On motion, Senate adjourned.

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

We have the 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. The Chair recognizes Senator Meier.

SENATOR MEIER: Mr. President, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate 7026.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR MEIER: Mr. President, on page number 14, I offer the following amendments to Calendar Number 6, Senate Print Number 459, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: Amendments are received and so ordered.

SENATOR MEIER: Mr. President, on page number -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Gentlemen, we can't hear the numbers for accuracy, please, and ladies.

Thank you.

SENATOR MEIER: Mr. President, on page 14, I offer the following amendments

to Calendar Number 40, Senate Print Number 5942-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: Amendments are received and so ordered.

SENATOR MEIER: On page number 28, I offer the following amendments to Calendar Number 500, Senate Print Number 6332, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: Amendments received and so ordered.

SENATOR MEIER: Mr. President, I wish to call up Senator Saland's bill, Print Number 4519-A, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 413, by Senator Saland, Senate Print 4519-A, an act to amend the Domestic Relations Law.

SENATOR MEIER: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MARCELLINO:

Secretary will call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 47.

SENATOR MEIER: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MARCELLINO: Amendments are received.

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

Would you please remove the sponsor's star from, on page 36, Calendar Numbers 273, 319, 459 and 461, at the request of Senator Paterson as well.

ACTING PRESIDENT MARCELLINO: So ordered, Senator.

SENATOR PADAVAN: And, Mr. President, on today's calendar, would you place a sponsor's star on Calendar Number 551, Senate Print Number 3080.

ACTING PRESIDENT MARCELLINO: That shall be done, Senator.

SENATOR JOHNSON: At this time may we please have the reading of the

non-controversial calendar.

ACTING PRESIDENT MARCELLINO: Before we do that, Senator Johnson, may we do some substitutions.

SENATOR JOHNSON: Sure.

ACTING PRESIDENT MARCELLINO: Thank you. Secretary will please read.

THE SECRETARY: On page 5, Senator Lack moves to discharge from the Committee on Judiciary Assembly Bill 9763 and substitute it for the identical First Report Calendar 701.

On page 5, Senator Lack moves to discharge from the Committee on Judiciary Assembly Bill Number 9762 and substitute it for the identical First Report Calendar 702.

On page 6, Senator Holland moves to discharge from the Committee on Housing, Construction and Community Development Assembly Bill Number 1337 and substitute it for the identical First Report Calendar 708.

And on page 35, Senator Velella moves to discharge from the Committee on

Insurance Assembly Bill Number 10723 and substitute it for the identical Third Reading Calendar 617.

ACTING PRESIDENT MARCELLINO: Substitutions received and accepted.

Senator Johnson, do you want us to read now the non-controversial calendar?

SENATOR JOHNSON: Yes, Mr. President, please go ahead with the non-controversial.

ACTING PRESIDENT MARCELLINO: May we have a reading of the non-controversial calendar, please.

THE SECRETARY: Calendar Number 241, by Senator Leibell, Senate Print 2351, an act to amend the Administrative Code of the city of New York.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 307, by Senator Johnson, Senate Print 2720-A, an act to amend the Environmental Conservation Law, in relation to establishing a state and municipal scrap off-the-road.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 2.

This act shall take effect April 1.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO:

The bill is passed.

THE SECRETARY: Calendar Number 423, by Senator Saland, Senate Print 5563, an act to authorize the Commissioner of General Services to sell and convey.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 5.

This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MARCELLINO:

The bill is passed.

THE SECRETARY: Calendar Number 431, by Senator LaValle, Senate Print 4741, an act to amend Chapter 554 of the Laws of 1996.

SENATOR JOHNSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 465, by Senator Saland, Senate Print 4595-A, an act to amend the Criminal Procedure Law, the Education Law and the Personal Property Law.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 479, by Senator Hannon, Senate Print 6263-A, an act in relation to permitting the Church of the New Life, Incorporated to file an application.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 517, by Senator Kuhl, Senate Print 6206, an act to authorize the village of Horseheads, county of Chemung, to offer an optional 20-year retirement.

ACTING PRESIDENT MARCELLINO: We have a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 521, by Senator Velella, Senate Print 6255-B, an act to amend the Insurance Law, in relation to authorizing insurers to offer.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 534, by member of the Assembly DiNapoli, Assembly Print 9663, an act to amend the Public Health Law, in relation to date by which the annual water supply statement shall be mailed.

ACTING PRESIDENT MARCELLINO: Read the last section.

SENATOR GOLD: No, hold on. Last section.

ACTING PRESIDENT MARCELLINO: Thank you for that permission, sir. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: Are you sure about that number? O.K. The bill is passed.

THE SECRETARY: Calendar Number 545, by Senator Farley, Senate Print 1955, an act to amend the Real Property Tax Law and the Social Services Law, in relation to withholding.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 550, by Senator DeFrancisco, Senate Print Number 3005-A, an act to amend the County Law, in relation to the autopsy of an inmate of a correctional facility.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 552, by Senator LaValle, Senate Print Number 3135, an act to amend the General Municipal Law, in relation to point systems for service award programs.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 617, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10723, an act to amend the Insurance Law, in relation to homeowners insurance.

ACTING PRESIDENT MARCELLINO: Read the last -- oh, Senator Paterson.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

Senator Cook, why do you rise?

SENATOR COOK: May I be negative on 479, please?

ACTING PRESIDENT MARCELLINO: Senator Cook will be recorded in the negative, without objection, on 479. Senator, that was laid aside.

SENATOR COOK: Was it?

ACTING PRESIDENT MARCELLINO: It was laid aside, I'm sorry.

You want to do the last one?

Senator Johnson.

SENATOR JOHNSON: Mr. President, may we please return to motions and resolutions.

ACTING PRESIDENT MARCELLINO: Can we return to motions and resolutions, please. We have a resolution at the desk.

SENATOR JOHNSON: Mr.

President, I believe there are two privileged resolutions at the desk, by Senator DeFrancisco. May we please have the titles read and move for their immediate adoption.

ACTING PRESIDENT MARCELLINO: Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution 3287, honoring the students of the Fourth Grade Inclusive Class at Ramsdell Elementary School, Jordan, New York, for their participation in the 49th Senate District "Good News! Good Kids!" Youth Responsibility Program.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I'm pleased to have students from the Ramsdell Elementary School in the gallery today, and they are the winners of the elementary section of the "Good News! Good Kids!" Program, and this is a real interesting program that they did that I'm sure everybody is going to listen to carefully, including Senator Lack and Senator Libous.

SENATOR LIBOUS: Yes, sir.

SENATOR DeFRANCISCO: Basically every year we honor a high school class, an elementary class and a middle school class and a school that puts in a project that shows that good kids are out there doing good things as opposed to the negative news we all too often hear about. This is an interesting thing that happened in Ramsdell Elementary School. It's off the Erie Canal, and they did some clean-up projects, but more importantly in their studies they learned that there was a cannonball in a tree that marked the spot where Lincoln came through Jordan during one of his -- one of the tours through this fine state. That's Abraham Lincoln, and they did some more research on that and study on that and ended up finding the exact location where that historic event took place and, when they found that location, they had Abraham Lincoln himself come to the school area and help plant the tree, and it really was Abraham Lincoln. I saw him; I talked to him. He's from Illinois. By the way, he told me something and it's a little side bar that I thought

everyone should hear, because I was really talking to Abraham Lincoln, the man who's been portraying him for 20 years. He's from Illinois; he came to Syracuse, and he said, "It's a little chilly here." He said, "I hear it's usually quite cold in these parts of the country." I said, "Yes, it is." He said, "I understand politicians keep their hands in their own pockets in this particular area because it's so cold." I said, "It was like that back in your day, too, wasn't it, Mr. President?" He said, "Absolutely, absolutely," but a man who looked exactly like him, and sounded like him and I think it was him.

So he was there for the celebration. So by this clean-up effort, by planting the tree on the exact spot where this historic event took place, they're not only learning things he did, but they're doing good things for their community. So I salute all the children and the teachers and parents from Ramsdell Elementary School who share the day with me, and congratulate them on their winning the "Good News! Good kids!" project for the elementary students.

ACTING PRESIDENT MARCELLINO: All those in favor of accepting the resolution signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is passed. We congratulate the students of Ramsdell Elementary School. Your project is a worthy one. Anyone who appreciates the environment certainly deserves this very much.

The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution 3288, honoring Fourth Grade students of Enrichment Teacher Mary Stanton at Ramsdell Elementary School, Jordan, for their participation in the 49th Senate District "Good News! Good Kids!" Youth Responsibility Program.

ACTING PRESIDENT MARCELLINO: All in favor of this resolution, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The resolution is passed.

We have one more resolution, Senator Johnson. By -- one more? One more resolution. Secretary will read.

THE SECRETARY: By Senator Mendez, Legislative Resolution 3324, honoring Metropolitan Hospital Center as they celebrate National Nurses Recognition Week in New York State.

ACTING PRESIDENT MARCELLINO: On the resolution, all those those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is passed.

SENATOR JOHNSON: Mr. President, may we now go to the controversial calendar and first call up Calendar Number 617.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 617, substituted earlier today, by member -

by the Assembly Committee on Rules, Assembly Print 10723, an act to amend the Insurance Law, in relation to homeowners insurance.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act -

ACTING PRESIDENT MARCELLINO: I'm sorry. Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

Would the sponsor please yield to one question?

ACTING PRESIDENT MARCELLINO: Senator Velella, do you yield to a question?

SENATOR VELELLA: Yes.

ACTING PRESIDENT MARCELLINO: Senator yields, Senator.

SENATOR SMITH: Thank you. Under normal circumstances, when a board is increased, the Minority and the Majority have had the opportunity to make appointments. In this particular instance, only the Majorities will be making additional appointments. Could you tell me if there's a reason why?

SENATOR VELELLA: Well, there are four Minority, and I mean by "minority" I mean political minority. There are four political minority appointees, two Senate Minority appointees and two Assembly Minority appointees. You will now have two appointees and we will have five. I think that's a good ratio.

SENATOR SMITH: So actually there will be ten to four.

SENATOR VELELLA: What?

SENATOR SMITH: There'll be ten to four.

SENATOR VELELLA: Well, if you add us together with the Assembly Majority, yes, ten-four.

SENATOR SMITH: Well, we were doing Majority versus Minority. We won't even get into the other Minority.

SENATOR VELELLA: Remember Avis? Harder. I say remember Avis? Try harder.

SENATOR SMITH: I'll leave the reply to that one until later.

ACTING PRESIDENT MARCELLINO:

Thank you very much.

Senator Dollinger.

SENATOR DOLLINGER: Would the Senator yield to just two questions? I was only going to ask him one.

ACTING PRESIDENT MARCELLINO: Will you yield to two questions?

SENATOR VELELLA: Oh, no, I'll yield one at a time.

ACTING PRESIDENT MARCELLINO: I'm sure he will.

SENATOR DOLLINGER: Through you, Mr. President, was the five to two ratio a good ratio when you were in the Assembly?

SENATOR VELELLA: We didn't even get the distinction of having that. We were told we didn't get any.

SENATOR DOLLINGER: But you would -- would now presumably.

My second question which perhaps deals with a more substantive one, one that you and I have talked about before and that's the question that affects my neck of the woods with respect to wind-blown wave damage.

I note that there is a requirement in here that talks about wind storm insurance notices, presumably to require the Commissioner to give greater specificity in the policies that are sold about the effects of wind -- wind storm damages. I think you and I have talked about this before, my concern about wind-blown wave damage in the Great Lakes. It's not a flood. The water doesn't rise to flood level, but yet when the waves come up on Lake Ontario they pound the south shore, raise the water, and it has the effect of acting like a flood even though the water level isn't up.

Does this, in part, address that?

SENATOR VELELLA: Well, I don't know that this, in part, addresses the flood action that you're talking about, the wave action, but our research and our staff has told us, and I don't know if you have a different message from the fed's, that the federal flood insurance does cover wave action and has been changed apparently since our last discussion to include wave action, so that

that would be covered in flood insurance and that they are doing some very aggressive programs, as I understand, in your community to try and encourage people to sign up for the federal insurance that's available to them.

The notices that we talked about in this bill deal with some things that I have a little bit of a problem with and that probably most home owners in the state don't realize, and that is that some of the companies have slipped in deductibles that weren't there before, and that when you have a policy and you have this hurricane damage, there are some -- and wind storm damages, there are some deductibles that didn't apply before and the policy terms have been changed, so we are asking that when those terms are altered that notice be given to the policyholders.

SENATOR DOLLINGER: O.K. O.K. So this, again through you, Mr. President, this will -

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT MARCELLINO:

He yields.

SENATOR DOLLINGER: This requires greater -- requires the Commissioner to come up with a notice that will give home owners greater specificity and better language that describes exactly what is covered in a wind storm and whether there's a deductible, if so how much it is and what it applies to, whether just the wind storm value or the overall value of the house.

SENATOR VELELLA: Exactly.

SENATOR DOLLINGER: Is that correct?

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO:

The bill is passed.

May we continue reading the controversial calendar in the regular order, please.

THE SECRETARY: Calendar Number 241, by Senator Leibell, Senate Print 2351, an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Leibell, an explanation has been asked.

SENATOR LEIBELL: Thank you, Mr. President.

This bill would amend the Emergency Tenant Protection Act to provide that a tenant's failure to file a New York State and New York City Resident Income Tax return from the tenant's rent-regulated apartment shall result in a legal determination that such tenant does not occupy the unit as his or her primary residence. This bill would also add a new

section to the Tax Law to provide for verification of the resident's filing address.

There is little question that the protections afforded under New York State's rent regulation statutes are intended for the benefits of New York residents who live in their rent-regulated apartments as their primary residence. No one can rationally assert that the benefits that are granted under our state's rent regulation laws, intended to ease the burden on New York's families to find affordable housing within New York, should be extended to persons who do not live in the rent-regulated jurisdiction. This concept has been a part of the law of rent regulation as long as there has been rent regulation.

That is why the Emergency Tenant Protection Act requires that a rent regulated unit be maintained as a tenant's primary residence in order for the unit to be eligible for rent regulation. However, despite this clear intent of the law, enforcement has been almost non-existent, and

no law is effective or will be obeyed unless it is enforced.

This legislation would provide for such enforcement of the primary residence law, by permitting the verification of the tenant's primary residence address through a review of his filing address on the tenant's city and state income tax returns. Pursuant to -- to this bill, the failure to file such returns with the address of the rent-regulated apartment shall result in a finding that the unit is not used as a tenant's primary residence.

It should be noted that case law presently allows for the inspection of tax returns in determining whether the unit should be eligible for coverage under the applicable rent protection regulations. This legislation would codify this case law and expressly provide for this verification information to be applied to the eligibility sections of the ETPA.

One additional comment that needs to be made is the fact that the very integrity of the rent regulation system

depends upon the fact that it is helping our citizens. The very purpose of rent regulation is to help citizens of a community find affordable housing in that community.

ACTING PRESIDENT MARCELLINO: Read the... Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, if Senator -- if Senator Leibell would yield for a question.

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MARCELLINO: Senator yields, and might I ask that we have some order in the chamber, please.

Senator.

SENATOR PATERSON: Thank you, Mr. President.

Senator, the court of competent jurisdiction, as it is designated under the law, is right now the arbiter of whether or not a tenant is actually acting as the primary resident. Is there anything in the law as it stands right now, the Emergency Tenant Protection Act, that restricts the court of

competent jurisdiction from examining the income tax returns to determine whether or not, by failure to pay state or city income taxes, that the individual is not a primary resident?

SENATOR LEIBELL: No, it's my understanding there is not, Senator.

SENATOR PATERSON: Thank you, Senator.

Mr. President, if the Senator would yield for another question.

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR PATERSON: Well, then, that is the case, Senator, and especially considering that it appears in this legislation that a finding that the tenant did pay state and city income tax that that will not automatically qualify the tenant as a primary resident; that's how it's described in the legislation, then I submit to you, Senator, that wouldn't it then be best that among the other variables that the court of competent jurisdiction is considering that we

just leave the law the way it is right now and let the court decide?

SENATOR LEIBELL: I don't think so, for this reason: I think that this is such a significant issue that's before us and, as you know, we have that rent regulatory statute because it is perceived by many that there is a housing crisis within the city of New York. If that is the case, we wish to make absolutely certain, leave no stone unturned, to make certain that those people who are occupying those units that are, in fact, to be regulated by our regulatory machinery would, in fact, be residents and that, in fact, that they are not living in another jurisdiction possibly outside of the state of New York where that would be their primary residence.

The purpose of this legislation is to make sure that that is, in fact, the case, that there would be no question, that if it should be -- go before any court, there would be no question as to the intent of this legislative body.

SENATOR PATERSON: Thank you, Senator.

Mr. President, if the Senator would continue to yield.

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR LEIBELL: Certainly.

ACTING PRESIDENT MARCELLINO: He continues to yield, sir.

SENATOR PATERSON: Senator, what I don't understand is that had you made this issue a threshold issue by allowing the filing of a state and city income tax form to have been the determining factor as to what would establish the primary residency, then I can honestly tell you I think I would have to vote for the bill because now -- or even if I didn't vote for the bill, I would understand it better, because now you have defined exactly what would be the terms in which a person would establish residency; but what you've done is you've created a qualifier that eliminates one that does not pay state and city income tax, and yet the actual fulfillment of the requirement doesn't entitle the tenant to any more protection than in the first place; so then we'd have to go back to

the court of competent jurisdiction anyway and examine telephone bills, utility bills and other variable factors.

So what I'm just asking is, why did you not, if you -- if you were trying in the legislation -- and I can understand what you're trying to accomplish and certainly I have some -- some feeling that the primary residency was the real protection that the Emergency Tenant Protection Act was designed to -- to assist, but at the same time my question to you is, why have you left part of the -- why have you left part of the determination open at the same time you've created in a sense a nullifier through the income tax process?

SENATOR LEIBELL: If I may, Senator, there are many factors I'm certain that could be considered, especially utility bills, driver's licenses, these factors can be considered but, as you know, there are many ways to get around those, for instance, a driver's license which is not as easy to do when you're talking in terms of a tax return. A tax return is really quite specific. It's

not easily gone around. It's not easily subverted.

In order to guarantee that this housing stock is open to those who are, in fact, residents, this certainly, I believe, would have to be the safest way to proceed.

SENATOR PATERSON: O.K. Thank you very much, Senator.

Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Paterson, on the bill.

SENATOR PATERSON: Mr. President, sometimes this kind of an argument is made in an almost cynical or satirical way, but I mean this in all sincerity. Senator Leibell, in many respects, outlined what would really be the thrust of my argument even though he disagrees with me. His noting on the record that the specifics of the income tax return, and certainly in our society, the -- the attention to detail as we are reading about in the newspapers, perhaps too much attention to detail at times, demonstrates that this would be a very hard roadblock to get around for someone who is trying to

establish their primary residence.

So, therefore, I would certainly understand it if the thrust of the legislation enured to the benefit of the tenant as much as to the detriment, whereby if the person could establish that they have paid their personal income tax on the city or state level from that residence, that that's the primary residency, but I think to have legislation that is at best confusing by the fact that it -- it can eliminate or nullify the primary tenancy on one hand but doesn't have any access to verifying it, is a piece of legislation that we suggest needs to be reworked.

We certainly understand Senator Leibell's honest concern about individuals who are probably taking the places of others who would be qualifying and deserving to be tenants in New York City and primary residents, but at the same time to have a system that has no reward and at the same time great penalty, and that the reason for it is because of the specificity of the way income taxes are applied in our country, in our

opinion, creates in a sense an imbalanced scale and, for that reason, 19 Senators in 1996 voted against this piece of legislation, and this is the same legislation that we voted on at that time, and we recommend its defeat today.

ACTING PRESIDENT MARCELLINO: Read the last -- Senator Gold.

SENATOR GOLD: Yeah, Mr. President, I've gotten a lot of civics lessons over the years in this chamber, and I have also been the beneficiary, if you want to use that word, of many lectures from my colleagues on the other side about representative government, and I've been told that -- as a matter of fact, almost an Edmund Burke philosophy coming from that side on the -- and the anti-Edmund Burke questioning whether it's your industry alone as well as your intellect that you're supposed to give constituents, and what do they want back home, and during that time I think it's really classic because -- I don't want to offend anyone on the other side, but I don't recall any member of the Republican Party in this house being the

chairman of the Housing Committee who ever represented a district in the city of New York and, of course, that sets up the classic good guy/bad guy case, as we all know, and if we are going to talk about representative government, everybody in this chamber knows that the reason that there's so much opposition here is because those who represent these tenants, such as Senator Paterson, can't possibly support this legislation, and it's not a question of not supporting it because we are anti-landlord or anti-this and we're afraid of a tenants' group here and there. I think some of the people on this side of the aisle have, over the years, stood up and been very courageous. But the bottom line here is that the reason that this bill has such a long legislative history is because, as most of us understand, it will have an even longer legislative history because it ain't goin' nowhere, and the problem is that it is a one sided law, and most of the things we do here, you know people talk about partisan politics and very few people realize that this distinguished body votes 18-, 1900 times a

year very often, and if you take a look at those roll calls the vast majority of them are unanimous because both sides of the aisle are trying to do the right thing, and most of the things we do benefit the people in a very fair way.

I think, having said that, I will vote with my distinguished leader, Senator Paterson, because this doesn't handle it in an even way. It's an invitation by one side of the aisle to gain favor with one part of the constituency that's involved with this issue, and to create a rift right down the middle with this side of the aisle, and that constituency. But it's O.K., because you do the same thing for your people.

Be interesting to see how your New York City members vote on this, and I always find it interesting that in those situations where the majority party in this house offers legislation which opposes interests in New York City, every once in a while we pick up a New York City vote on your side, and I wonder why in conference you don't listen to those votes.

But I -- having said that I adopt the philosophy of my leader, Senator Paterson, and I will vote in the negative.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Leichter.

SENATOR LEICHTER: Mr. President. Senator Leibell, I could support this bill -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Are you speaking on the bill?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT MARCELLINO: O.K. Senator Leichter, on the bill.

SENATOR LEICHTER: Senator Leibell, I could support this bill if it did what I think you intended to do, but I think the bill suffers from a drafting -- or I won't say "error", but incompleteness, and maybe for that purpose, if you'd be so kind and yield to a question.

SENATOR LEIBELL: Certainly.

SENATOR LEICHTER: Senator, as I

read -

ACTING PRESIDENT MARCELLINO: I thought you were on the bill, Senator.

SENATOR LEICHTER: I was on the bill, but now I'm asking him a question.

ACTING PRESIDENT MARCELLINO: You're getting off the bill; is that what you're telling me?

Senator Leibell, do you yield for a question?

SENATOR LEIBELL: Certainly.

ACTING PRESIDENT MARCELLINO: He yields, Senator Leichter.

SENATOR LEICHTER: Thank you, Mr. President. Thank you, my good friend, Senator Leibell.

Senator, what happens if somebody files a tax return two days late - no question under my example, this is somebody lives in New York, every night he sleeps in his rent-controlled or rent-stabilized apartment, but he files his return two days late? As I read that bill, he would lose his right to remain as a rent-stabilized or as a rent-controlled tenant.

SENATOR LEIBELL: To respond to that, Senator, if he had filed for an extension?

SENATOR LEICHTER: He didn't file for an extension. He did what, unfortunately, some people do. He filed late. People do that, he's two days late. He's committed an offense. He's probably going to have to pay interest and a penalty but, as I read this bill, he loses his apartment.

SENATOR LEIBELL: That would not be correct. Commissioner of Taxation and Finance would have the ability to look into that, to examine that and make a determination, and I would suggest to you that it's not a question of two days that we're talking about.

Senator, if I thought there was some way that I could improve this bill to your liking, I'd be happy to talk about it without gutting it, but I think the issue is not really a question of two days. We're not looking for something de minimus even though, in fact, that may have been something wrong.

That's not our purpose.

Our purpose is to find those people out there actually defrauding the system, and we would wish to turn that housing over to your constituents who might need it.

SENATOR LEICHTER: Senator Leibell, we agree on the purpose. The purpose is fine, but you and I, as we vote on this bill, have to consider specific language, and the Commissioner of Taxation doesn't have super power of the Legislature. He can't say, Well, they didn't mean that.

Let me just read exactly what you've written and again ask you whether, in fact, my example doesn't mean that this long time New York City resident would lose his apartment or at least would lose his right to be a rent-controlled or rent-stabilized apartment.

It says, For determining primary residence... finding that the tenant has not occupied the unit... his or her residence -- I'm sorry, here it is. It's on line 8, "*** purposes of determining primary residence using this chapter, the failure to

file a New York City resident income tax return by an individual required by law to file such a return***" then the only exception is that if you have an extension, so if you don't have an extension, you have not filed a return. You've not made a timely filing of the return.

There's nothing in the law which says that the Commissioner of Taxation can waive it. Suppose he's a week late; suppose he's a month late. Suppose he's two months late. Senator, I think with all due respect, I mean I think my point is well taken, if I have to say so myself, but -

SENATOR LEIBELL: Got it, Senator, if you did.

SENATOR LEICHTER: But in all fairness, Senator, if this bill said that if somebody filed a state or, for that matter, even a federal income tax return and he states his address to be other than where he or she occupies an apartment that is under rent control or rent stabilization, I will vote for that bill, but that's -- I think that's what you intend to say, but I think that the way

you've set it up, I think you've really left a -- a loophole, if you will, or at least worse than a loophole, you've caught people in the mesh of your bill that really, you don't intend to get. You're trying to get the people who have a rent-controlled apartment but they're off in Connecticut or Florida and they're paying taxes there. They shouldn't be getting the benefits of the rent control law. I agree with you, but I think that your bill as it's written is going to apply to people who clearly are New York residents who have committed the mistake or the error of having filed late, and who now will lose their rent controlled apartment.

SENATOR LEIBELL: Well, Senator, it's not -- first, I'd be interested to see if you're going to be submitting a bill espousing what you've just said.

SENATOR LEICHTER: Senator, may I just interrupt and ask you a question?

SENATOR LEIBELL: Will that be forthcoming, Senator, your bill?

SENATOR LEICHTER: Yes. Let me answer it this way, Senator.

SENATOR LEIBELL: Yes. You have -

SENATOR LEICHTER: You've been here a number of years. How many Leichter bills have you seen on the calendar? I have to -- I don't think -- I can't remember one, the last three, four years, so my putting in a bill, Senator, if it's a good idea, you do it and I'm not going to waste my time or anybody else's time -

SENATOR LEIBELL: Well, Senator, as chairman of Housing, I'd be very interested in seeing that bill, I can assure you, but in answer to your question, you are correct, I have not been on the Leichter watch, I have not been looking for your legislation, you are correct, but I would be more than happy to entertain that bill if it came through. It would be shocking, but I'd be happy to entertain it.

SENATOR LEICHTER: Senator, I'm telling you right -

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT MARCELLINO: Senator Leibell continues to yield.

SENATOR LEICHTER: Senator, I can assure you, you put in a bill that says if somebody files a tax return listing his primary residence other than New York -- New York State, that he or she then can conclusively presume not to have their New York -- that New York apartment as their primary residence, I'll vote for it. You don't need me to put the bill in, because my bill isn't going to go anywhere. Even though you -- even though you'll put the bill out, there'll be some gnome on the third floor who's going to say, Leichter, Democrat, no. This bill can't go, so let's not waste our time.

I'm just suggesting change your bill that way, and probably most of those 19 votes against it will become in favor, and I'll certainly be one in favor. All I'm suggesting is correct what I think is an oversight in your bill, or I think a wording of the bill that may lead to an injustice, and you could very simply have the bill accomplish

your purpose by stating what I just said, say any filing of a tax return which lists a primary residence other than the person's claimed rent-controlled or rent-stabilized apartment proves that the person is -- that New York is not his primary residence, and you got it.

SENATOR LEIBELL: I think that this is a strawman that we're dealing with here, and begs the real issue. This is a, I think a bill that is quite fair and it certainly in no means intends to entrap anyone who is on a two-day delay. In fact, a certification, I believe, that would come from the Commissioner would -- would address that and I'd be shocked if they had opened any tax returns that fast, but I don't -- I think this legislation is well crafted.

I certainly, as I say, would be happy to entertain any additional concerns you may have legislatively, but I think this is a good bill. This bill has been before us before. It's been passed in this house before, and I am certainly satisfied that it would go a long way towards helping us with

some of our problems in the city.

Thank you.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 5.

This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO:

Calculate and announce the negatives, please, and the results.

Announce the results, please.

THE SECRETARY: Those recorded in the negative on Calendar Number 241 are Senators Abate, Connor, Gentile, Gold, Goodman, Kruger, Lachman, Leichter, Marchi, Markowitz, Nanula, Onorato, Rosado and Santiago. Ayes 42, nays 14.

ACTING PRESIDENT MARCELLINO:

The bill is passed.

Senator Johnson, Bill Number -- Calendar Number 441 has been laid aside for the day at the request of the

sponsor. Can we move on to Calendar Number 465.

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, on Thursday I was out of the chamber when the vote was taken on Calendar Number 539, Senate Number 647. If I had been in here for the vote, I would like the record to indicate that I would have voted "no" on the bill.

ACTING PRESIDENT MARCELLINO: The record will so indicate.

Secretary will read.

THE SECRETARY: Calendar Number 465, by Senator Saland, Senate Print 4595-A, an act to amend the Criminal Procedure Law, the Education Law and the Personal Property Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Saland, an explanation has been requested.

SENATOR SALAND: Thank you, Mr.

President.

Mr. President, what this bill would do would be to convert the current status of security personnel on SUNY campuses, generally known as public safety officers, to police officers, and this year's version of the bill is somewhat different than last year's, and I'd like to take a minute or two to explain what those differences are, perhaps with the idea of abbreviating the debate.

As many will recall, there was an effort to try and define the geographical area of the police officers who would be appointed by the State University, and to narrow somewhat the language which last year talked in terms of their jurisdiction including a public highway which crossed or abuts the SUNY campus property.

We have described that language somewhat differently, talking in terms of - and I'm looking at subsection (d) of Section 1 on the third page of the bill which makes reference to any portion of a public highway which crosses or abuts such property, and then, interestingly enough, there were

conflicting concerns as is the case around here from time to time, with regard to the status of the relationship between a SUNY campus and the municipality within which it is located, some concerns being expressed that there was in some instances a desire for some type of mutual or reciprocal agreement whereby the SUNY police would be authorized to offer assistance to local police and the converse being true, the great concern in some quarters that there be no unauthorized involvement by SUNY police in matters which would otherwise be within the realm off campus of the work of municipal police, and to that end I would call everybody's attention to page 8, lines 40 through 45, which basically talks in terms of subject to the approval of the chancellor, each -- the president of each campus would have the ability to enter into agreements with adjoining law enforcement agencies establishing protocols which would basically define the interaction of campus police within a municipality and in conjunction with local police where desired, and I probably have somewhere in the area of in excess of five

dozen supportive letters from various and sundry sheriffs' departments, police agencies. A number of those agencies are agencies in which they do have SUNY campuses and there seems to be, at least in those that I have seen, a ringing endorsement of the idea of making the SUNY police in those communities the SUNY -- I'm sorry, security personnel in those communities police officers as well.

With that, I'll be more than happy to yield to any questions that anybody might have.

ACTING PRESIDENT MARCELLINO: Senator Hoffmann, please.

SENATOR HOFFMANN: I wonder if Senator Saland would yield for a question, please.

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR HOFFMANN: Thank you. Has -- to your knowledge, Senator Saland, has

the New York State Sheriffs Association withdrawn its opposition to this?

SENATOR SALAND: I have not seen a memo in opposition from the sheriffs this year; that's not to say that they're not. I have seen a memo in opposition from the Police Conference.

SENATOR HOFFMANN: Thank you. Thank you, Senator Saland.

Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Hoffmann, on the bill.

SENATOR HOFFMANN: It is my understanding that the Sheriffs Association and the Police Conference continues its objection to this bill. There are a number of reasons that they have cited in the memorandums last year which they apparently are standing by this year.

Just in the very briefest fashion, if I could encapsule it in part by saying that in every campus there is already a sheriff's department or a local law enforcement entity prepared to work in conjunction with the campus police officers.

They point out the disparity in the training between campus security officers and municipal or county police officials, and they also make, I think, a rather telling argument about accountability which I would just read to my colleagues, from the 1997 police memo and if this -- excuse me, Sheriffs Association memo and, if this is out of date, I apologize, but it is my impression that it is accurate.

I read that it is a very dangerous thing to give the state's police powers to officers who are shielded from accountability to the public by layers of bureaucrats, none of whom anywhere in the chain are chosen by the electorate and, while I applaud Senator Saland for his concern for the well-being of the college students on the SUNY campuses and for people in the area who might be affected by criminal activity and the desire to see more people able to respond to criminal activity, there is still a question about disparity in training as well as disparity in accountability, and I think that we owe it to the men and women of this state who are sworn law enforcement officials and

who count the Police Conference or the Sheriffs Association as their voices here in this Capitol, I think it behooves us to take a more serious look at this measure.

So at this point I am still prepared to cast a no vote.

ACTING PRESIDENT MARCELLINO: Senator Leichter.

SENATOR LEICHTER: Mr. President, if Senator Saland would yield please?

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR LEICHTER: Senator, I think it was somewhat telling that, in your explanation of the bill, you never told us why this is needed.

SENATOR SALAND: Well, I'll be more than happy to review some of the things that we've discussed previously. I was trying, and perhaps I misjudged and I owe the

chamber an apology, not to prolong the debate.

Let me give you some of the things which I think would justify a concern and I mentioned this, I believe, in last year's debate: Back in 1993 or 1994 I chaired a task force which dealt with the subject of campus crime, and we held hearings at a number of locales throughout the state and, in each and every instance, one of the things that came up -- and I say in each and every instance, and it came up not merely from the public safety officers but student personnel and administration as well -- was the need for law enforcement police status for campus security personnel.

Some of the things of interest and I'll make reference to Senator Hoffmann's comments. What happens far too often is that the requests for response at SUNY campuses become in a number of areas, in a number of situations, very low priority requests and the local police or local sheriff's department will concentrate their resources elsewhere and very often that hampers the ability to pursue a criminal investigation because, as you know,

in order to pursue a criminal investigation the sooner you get on the evidentiary trail the sooner you take your statements, the likelier you will have a successful prosecution, and while I'm at it, I'd like to just dispel one other thing and then I'll get into some statistics which I think you will find interesting.

There was talk about a lack of training. SUNY personnel currently are trained at the State Police Academy. They receive virtually the same training as municipal police receive, and they receive some 531 hours of training and, if you'd like, I could share with you from the manual what they receive -- training in firearms, training with arrest procedures, virtually identical with certain, I would assume, accommodations to the difference of dealing with a student population than perhaps dealing with the population at large.

But I think your question implies the need, and I have before me a chart of crime statistics at the SUNY campuses, and there for the last five years the most recent

being 1996, and what it shows is an increase in robberies, an increase in burglaries, an increase in crimes involving dangerous weapons. Yes, in some areas there's been a diminution in crime. Certainly it has not been uniform, and certainly not unlike the situation that exists today where we have seen a diminution in some instances in crime data, nobody is out clamoring for us to do away in our localities or at the state or county level with either municipal police, State Police or county sheriffs.

Very similarly, nothing has changed in terms of the need and the desire to have status apply to SUNY security personnel. There's a number of issues of territoriality here, but I -- as I said earlier, I'll be very happy to share and I'll read them into the record at length, some five-plus dozen law en forcement agencies, some of them in SUNY communities, some not, that cross the spectrum -- municipal, city police, county sheriffs' offices all supporting this effort.

So we've tried to be as accommodating as possible. We tried to

address some of the issues that were raised during the course of your debate last year and others. We believe this is a carefully constructed bill, one which has moved out of committee in the Assembly, I understand, and we're hopeful that we're going to see agreement on this bill and passage this session.

SENATOR LEICHTER: Excuse me, Mr. President. If Senator Saland continues to yields.

Senator, I looked through the bill quickly and I didn't see it. Is there a provision in the bill which requires the training which you state is now given?

SENATOR SALAND: I believe you will find that in -- in law. I'm not sure if you're going to find it here. I do have the Public Safety Training Academy Manual which does at length set forth what the training is.

SENATOR LEICHTER: Well, that's -- but my question is there's nothing in this law or bill.

SENATOR SALAND: Nothing that

-- nothing that we've amended and, in all candor, Senator Leichter, I haven't read this with the provision with attempting to verify where that is. I'm looking now at Section 355 of the Education Law, and that provides that any person appointed a peace officer -- and that's the current status for security personnel, public safety officer at SUNY campuses -- must have satisfactorily completed or complete within one year of date of his appointment a course of law enforcement training approved by the Municipal Police Training Council in consultation with the university.

SENATOR LEICHTER: But, Senator Saland, I mean, if you continue to yield, that's my point. We now in the law provide for training of peace officers. Now, you're making them police officers. You're not - I'm sure you're not implying that police officers need not have any greater training than peace officers.

Now, maybe it's in some other provision of the law, but it would seem to me that that would be important. Even though

that training is now provided, if it's not required by law, it certainly creates a problem.

So, if you continue to yield.

ACTING PRESIDENT MARCELLINO: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, I will, if I may respond.

ACTING PRESIDENT MARCELLINO: You may respond.

SENATOR SALAND: Again, I'm told that the 531 hours is comparable in terms of numbers to what the local police receive as part of their training, and I must share with you that this will give you some comfort and this is only in part, some of the items, and this is one of 11 parts that are contained in the SUNY basic summary for the training course under "criminal investigation".

SENATOR LEICHTER: Senator Saland, excuse me, if -- I don't mean to interrupt you, except I do, but that -

I don't doubt that the training as you describe it is sufficient. I would just think it would be wise, in the law, to

require that training be given because if it's not required to be given, I can see some campus determining that, for whatever reason, they're not going to provide the training.

So that's -- that's the point I'm making.

SENATOR SALAND: Senator Leichter, the law does require that there be training, and the training has to be approved by the Municipal Police Training Council, and that training is currently what is described in far greater length and in far greater detail under the Public Safety Training Academy rules and regulations, and my assumption would be -- and I think it's a reasonable one -- to the extent that there would be any additional training by reason of their police status required, that that would be part of that course and, if it gives you any great comfort, I'm sure that that accommodation could be reached, but I certainly think it's implied.

SENATOR LEICHTER: Excuse me, Senator Saland, if you continue to yield. Where, in the bill, and that was my initial

question, and maybe -

SENATOR SALAND: It's in the existing law, existing law, and I have a copy, Section 355 of the Education Law.

SENATOR LEICHTER: But that referred to peace officers.

SENATOR SALAND: The section deals with the appointment of security officers, and it certainly dictates what the response has been by the SUNY administration by way of the creation of this particular training course and if, in fact, that section should be amended to reflect the word "police officers", that's a relatively simple thing to do, and I'd be more than happy to assure you that it will be done.

SENATOR LEICHTER: Thank you, Senator. If you would be good enough to continue to yield.

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR LEICHTER: Police officers are authorized to make an arrest anywhere in the state if he has reason to believe that a crime has been committed, as opposed to peace officers. Are these peace officers going to have the same power?

SENATOR SALAND: You will recall in my earlier remarks I made reference to page 1 of the bill about the geographic employment of a person appointed under this section. Their jurisdiction would be limited to campuses, SUNY campuses.

SENATOR LEICHTER: Excuse me. Senator -

SENATOR SALAND: The only way their jurisdiction could be increased would be under the section which I referred to you on page 8 which provides for the ability to enter into a protocol with the local municipality to provide some, for lack of a more appropriate term, mutual aid where a community would want that.

SENATOR LEICHTER: Senator Saland, again, if you will continue to yield. I understand that provision provides for what

their place of employment is but I don't think that changes the general law of the powers of a police officer to make an arrest anywhere in the state. All that says is they're going to be employed in their campus. That's fine, but as police officers, they now have all the powers that are given to police officers and one of those is to make an arrest anywhere within the state.

SENATOR SALAND: If you would look at pages 8 and 9, Section 17 -- yeah, you will see language which really recites where the jurisdiction of this SUNY police officer would be permitted to be exercised, and you look at the underlined language at line 7 and 8 on page 9, which basically again would limit it to the geographical area of employment of such police officer.

SENATOR LEICHTER: Well, with all due respect, and I don't know whether we want to take the time of our colleagues who I know are interested in this debate, but you do take out the key language which is "notwithstanding any inconsistent provision of law" and that section just says that the

person designated police officers by the board of trustees, et cetera, shall have among the powers the following: and I don't think that at all addresses the issue of whether they will have the general powers of police officers.

But let me ask you if you would, if you will continue to yield, Senator Saland. Will these police officers, like all other police officers, carry guns?

SENATOR SALAND: They will still be subject to the policy of the university. Most SUNY campuses, I'm told, roughly two-thirds or while I can't give you a hard number, currently permit their public safety officers to carry. There would still be the ability to -- to -- there would still be the discretion within the board of trustees to determine whether or not a -- a police officer should be able to carry.

SENATOR LEICHTER: Just one final question, Senator Saland.

I still don't understand why there's a belief that greater security will be provided on the campus by having these police

officers than presently having peace officers who certainly have powers, as I understand it, that are sufficient to deal with problems of crimes that arise on the campus. I mean the only real distinction you've made is that, as peace officers, they cannot conduct investigations into crimes that have occurred. I just can't believe any police department where a crime has been committed on a campus, a police department of the municipality wherever that campus is located, saying, Well, you know, this is a campus. We're not going to bother looking into a crime.

Outside of that, I -- I just fail to see what additional protection you're giving the students.

SENATOR SALAND: Well, Senator Leichter, as I mentioned in my earlier comments, there certainly are statistics which show that not only is crime comparable to whatever may be occurring within the communities within which these campuses are located, but in a number of instances with serious crimes, violent crimes, there the data

will show that crimes are on the increase. I certainly can't speak for what occurs on each and every one of those campuses; for that matter not every one of those campuses having the time to spend which are considerable periods of time.

I can tell you from my experience in the round of hearings that were held. I can tell you from speaking with both SUNY administrative personnel and with SUNY public safety personnel that, yes, as much as you don't want to believe it, that there are instances in which -- reported instances in which they advise me that local police relegate their criminal complaints to a lesser status. That jeopardizes the student, jeopardizes the students' property, jeopardizes the effective administration of public safety on the campus, and it could be literally resolved by providing these providing these personnel police officer status.

Nobody is going to be any the worse for it, and many people are going to be much better by reason of it.

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Leichter, on the bill.

SENATOR LEICHTER: As always, Senator Saland, you're very forceful in support of your legislation, and I understand the good concerns which prompt your legislation.

I think that campuses will be worse off, and I think society will be worse off if we bring people with guns onto campuses unless there's a clear compelling need, and you can identify and show a real benefit that will occur.

Now, the crime statistics, Senator, that you refer to, and I may be wrong because I haven't really looked at them, but I think by and large they deal with thefts, they have -- they, insofar as violence occurs, there may be fights among students or there are instances of rape or -- which, of course, are very disturbing and certainly need to be deterred and acted on, but I don't think these are the range of crimes where you're going to

get any meaningful or significant better protection by having people with guns on the campus than you do now from peace officers.

The only reason that you put forth that I could understand is you say, well, we need, where crimes have occurred to conduct investigations and unfortunately, our local police officials fail to do that or in some instances fail to do that, but I think that can certainly be dealt with, Senator, because it's obviously, as I'm sure you agree with me, wrong and we should not countenance it and say that we're going to put uniformed or create a new class of uniformed police officers because a municipality or municipal police forces are failing to carry out their sworn obligation and duty of investigating crimes and trying to arrest people who have committed crimes.

I just like to think of a campus as a place that is somewhat an oasis from some of the other vicissitudes of life. I realize that's somewhat naive and somewhat illusory, but it is still true to some extent, and I think to bring in uniformed police

officers really changes the character of that campus. I just don't think it's necessary for the protection of students. It isn't as if students are being attacked at such a rate that people are coming onto the campus where you really need somebody with a gun to protect the student. I just don't believe that's the case at all.

I happen to represent probably more educational institutions than anyone else. I represent Morningside Heights which is occasionally called the "Acropolis of America". I've got Columbia; I've got Barnard; I've got Union Theological; I've got Jewish Seminary. I represent parts of Fordham or used to represent Yeshiva University. I represent a lot of institutions. I've never had a university president come to me and - in fact, I think the distinguished president of Fordham is going to be in Albany today - and said, "I need unformed police officers," and these are campuses that are right in the city where you are more prone to -- to difficulties and to crimes occurring.

I just don't believe the case

has been made nor do I think that you've provided the safeguards that you want to provide. You haven't provided in the legislation itself that training must occur. If we're going to have people with guns on the campus, Senator, it's not enough to have, well, we got a training manual and we send them now. You got to provide in law that that training is going to be given and if you're going to limit those police officers solely to acting within the campuses, then I think you've got to specify that very clearly which I think your bill doesn't -- doesn't do.

So for all these reasons and I think, as Senator Hoffmann said, and point to the opposition of the Sheriffs Association, I just don't think this is a bill we should move at this time.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 20. This act shall take effect on the first day of the sixth month.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 465 are Senators Hoffmann and Leichter. Ayes 54, nays 2.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 479, by Senator Hannon, Senate Print 6263-A, an act in relation to permitting.

ACTING PRESIDENT MARCELLINO: That bill -

SENATOR JOHNSON: Star that bill at the request of the sponsor.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Johnson. Star that bill at the request of the sponsor.

THE SECRETARY: Calendar Number 545, by Senator Farley, Senate Print 1955, an act to amend the Real Property Tax Law and the Social Services Law.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr.

President, Senator Farley and I have discussed this bill at great length the past few years, also Senator Rath has some legislation that pertains to this subject, and she's joined in the discussion. Suffice it to say that the spirit of this legislation, I think, is very good. It would be a way to take taxpayer dollars away from landlords who are in arrears in their collections.

The problem is that it does it at the expense of those clients of Social Service who would, therefore, be penalized in the sense that landlords, knowing that they run this risk, would probably be more apt not to rent to those tenants.

That pretty much summarizes the opposition for which last year Senator Connor, Kruger, Senator Leichter, and Lachman, Senator Markowitz, Montgomery, Senator Santiago, Stavisky and Senator Sampson and myself voted against this bill, and we will probably vote against it this year.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 3.

This act shall take effect on the 90th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Please announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 545 are Senators Connor, Lachman, Leichter, Markowitz, Montgomery, Onorato, Paterson, Santiago and Seabrook. Ayes 47, nays 9.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 465.

ACTING PRESIDENT MARCELLINO: That will be done, Senator, without objection.

Senator Paterson.

SENATOR PATERSON: Mr. President, with unanimous consent, I'd like to

be recorded in the negative on Calendar Number 241.

ACTING PRESIDENT MARCELLINO: You will be recorded in the negative on Calendar Number 241, without objection.

Senator Seabrook, why do you rise?

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent I'd like to be recorded in the negative on Calendar Number 241.

ACTING PRESIDENT MARCELLINO: Without objection, it will be done, sir.

Senator Johnson.

SENATOR JOHNSON: Mr. President, is there housekeeping at the desk?.

ACTING PRESIDENT MARCELLINO: None, sir.

SENATOR JOHNSON: There being no further business, I move we stand adjourned until Tuesday at 3:00 p.m.

ACTING PRESIDENT MARCELLINO: The Senate stands adjourned until Tuesday, May 5th at 3:00 p.m.

(Whereupon at 4:19 p.m., the Senate adjourned.)