NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 16, 2000

11:05 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

Will everyone present please rise and repeat with me the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT MEIER: In the absence of clergy, may we bow our heads in a moment of silence.

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 15th, the Senate met pursuant to adjournment. The Journal of Sunday, May 14th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Bonacic, please place a sponsor's star on Calendar Number 995.

ACTING PRESIDENT MEIER: A sponsor's star will be placed on Calendar 995.

SENATOR MARCELLINO: Mr. President, on page number 56, I offer the following amendments to Senator Skelos's bill, Calendar Number 1043, Senate Print Number 6777, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MARCELLINO: Thank you,

Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Environmental Conservation Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Environmental Conservation Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Mr. President, are there substitutions at the desk?

ACTING PRESIDENT MEIER: Yes, there are.

SENATOR SKELOS: If we could make them at this time.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: On page 22, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 10921 and substitute it for the identical Senate Bill Number 7027, Third Reading Calendar 546.

On page 23, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 10427 and substitute it for the identical Senate Bill Number 6760, Third Reading Calendar 550.

On page 27, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 7970A and substitute it for the identical Senate Bill Number 4789A, Third Reading Calendar 655.

On page 30, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 10893 and substitute it for the identical Senate Bill Number 7374, Third Reading Calendar 722.

On page 44, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 10801 and substitute it for the identical Senate Bill Number 7335, Third Reading Calendar 919.

On page 46, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 9596A and substitute it for the identical Senate Bill Number 7470, Third Reading Calendar 938.

On page 50, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 10428 and substitute it for the identical Senate Bill Number 6915, Third Reading Calendar 977.

On page 50, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 7455A and substitute it for the identical Senate Bill Number 7429, Third Reading Calendar 978.

And on page 57, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 10035 and substitute it for the identical Senate Bill Number 7584, Third Reading Calendar 1052.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar.

ACTING PRESIDENT MEIER: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed,

nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution at the desk by Senator Maziarz. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Maziarz, Legislative Resolution Number 4248, honoring Lyndon D. Billings upon the occasion of his designation for special recognition on Sunday, May 21, 2000.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there is a privileged resolution at the desk by Senator Gentile. May we please have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Gentile, Legislative Resolution Number 4153, honoring Lieutenant Colonel Francis D. Clepper, Jr., upon the occasion of his retirement after 21 years of dedicated service to the United States Army.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President,

if we could take up the noncontroversial calendar.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 143, by Senator LaValle, Senate Print 2050A, an act to amend the Education Law, in relation to terms of community college trustees.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 400, by Senator Volker, Senate Print 729, an act to amend the Penal Law, in relation to causing the death of a peace officer.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 404, by Senator Padavan, Senate Print 1047, an act to amend the Penal Law, in relation to including police officers in the violent felony offense.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 454, by Senator LaValle, Senate Print 2760A, an act to amend Chapter 246 of the Laws of 1916 relating to the extermination of mosquitoes.

ACTING PRESIDENT MEIER: There is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 474, by Senator Trunzo, Senate Print 4491, an act to amend the Public Authorities Law, in relation to resident discounts.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 526, by Member of the Assembly Sweeney, Assembly Bill Number 9429, an act to amend Chapter 572 of the Laws of 1994 amending the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 569, by Member of the Assembly Matusow, Assembly Bill Number 4885, an act to amend the Education Law, in relation to requiring the Regents to include information.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 603, by Senator Bonacic, Senate Print 4850, an act to amend the Public Authorities Law, in relation to indemnification by the state.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

701, by Senator Padavan, Senate Print 6835, an act to amend the General Municipal Law, in relation to the salary of full-time police officers.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 713, by Senator Hannon, Senate Print 7336, an act to authorize the Miracle Christian Center in the Town of Hempstead.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Hannon, Senate Print 7301, an

act to amend Chapter 483 of the Laws of 1978 amending the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 719, by Senator Hannon, Senate Print 7367, an act to amend Chapter 505 of the Laws of 1995 amending the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 742, by Senator Leibell, Senate Print 6866, an act to amend the General Municipal Law and the Retirement and Social Security Law, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 748, by Senator Seward, Senate Print 6745A, an act to amend the Insurance Law and the Public Health Law, in relation to claims.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect 180 days.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 750, by Senator Seward, Senate Print 7294, an act to amend the Insurance Law, in relation to the issuance of service contract reimbursement policies.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 759, by Senator Meier, Senate Print 6689, an act to amend Chapter 942 of the Laws of 1983 and Chapter 541 of the Laws of 1984.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 818, by Senator Saland, Senate Print 1831, an act to amend the Criminal Procedure Law, in relation to expanding the offenses.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of the calendar month next succeeding the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

944, by Senator Larkin, Senate Print 4625A, an act to amend the General Municipal Law, in relation to establishment.

ACTING PRESIDENT MEIER: There is a home rule -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 949, by Senator Skelos, Senate Print 6871, an act to amend Chapter 821 of the Laws of 1970 amending the Town Law.

ACTING PRESIDENT MEIER: There is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 951, by Senator Stafford, Senate Print 7210,

an act to amend the Town Law, in relation to publicity fund.

ACTING PRESIDENT MEIER: There is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 955, by Senator Dollinger, Senate Print 6541, an act to authorize the City of Rochester to discontinue the use of certain lands as parklands.

ACTING PRESIDENT MEIER: Read the last section -- I'm sorry, there is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 962, by Senator DeFrancisco, Senate Print 706, an act to amend the General Obligations Law, in relation to enacting the "Drug Dealer Liability Act."

ACTING PRESIDENT MEIER: Read the last section.

SENATOR MONTGOMERY: Lay that one aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 989, by Senator Morahan, Senate Print 6044, an act to amend the Public Authorities Law, in relation to authorization by local law.

ACTING PRESIDENT MEIER: There is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1010, by Senator Volker, Senate Print 7378, an act to amend the Penal Law, in relation to arson in the fifth degree.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1025, by Senator Johnson, Senate Print 6352B, an act to amend the Highway Law, in relation to requiring the installation and maintenance.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1040, by Senator Fuschillo, Senate Print 6876, an act to amend the Correction Law, in relation to requiring Internet access.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Oh, I'm sorry. Senator Duane.

SENATOR DUANE: I'm going to vote no on this piece of legislation. I voted

without rec in -- without recommendation in the committee.

I just believe if we're going to tamper with or reform Megan's Law that we should do it with an omnibus bill and not just do it piecemeal in this manner. As many of you know, I'm not supportive of that legislation at all. But if we're going to reform it, then let's reform it.

I'll be voting no on this, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane will be recorded in the negative.

The Secretary will report the results.

THE SECRETARY: Ayes, 48. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1062, by Senator Lack, Senate Print 6443, an act to amend the Tax Law, in relation to extending the authorization.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1070, by Senator Goodman, Senate Print 7116, an act to amend the Public Officers Law, in relation to requests for certain records under the Freedom of Information Law.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1088, by Senator Morahan, Senate Print 6217B, an act to amend the Executive Law, in relation to increasing the annuity of blind veterans.

SENATOR MORAHAN: Mr. President, on the bill.

ACTING PRESIDENT MEIER: We're on the noncontroversial calendar, Senator. Would

you like to explain your vote?

SENATOR MORAHAN: Yes, I would, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Morahan, to explain his vote.

SENATOR MORAHAN: Thank you, Mr. President.

This particular bill increases the annuity that we pay to blinded veterans in the State of New York from $500 a year to $1,000.

We're joined here today by the president of the Blinded Veterans Association of New York, Mr. Herb Sutton, and his assistant, Regis Querin.

This was first established in 1913 and has never been changed until today. And I believe that this is a bill certainly long, long overdue, one that gives just a little bit

of recognition to the blinded vets.

Is it enough? No. Should it be more? Yes. Will we try for more? Yes, we will. We have provided for the funding in this year's budget. It's going to cost $1,600,000. And we got that through the Human Services Committee in the budget negotiations.

So I'm delighted to pass this bill today and welcome Mr. Herb Sutton with us today, who has done so much work with the blinded veterans and spearheaded this effort to get this monetary change in the annuity.

Thank you, Mr. Sutton, for being with us today.

ACTING PRESIDENT MEIER: Senator Morahan will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Transportation Committee in the Majority

Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Transportation Committee in the Majority Conference Room.

The Secretary will continue to read the calendar.

THE SECRETARY: Calendar Number 1126, by Senator Meier, Senate Print 7615, an act to repeal Section 153-k of the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1143, by Senator Morahan, Senate Print 7819, an act to amend the Public Health Law and Chapter 674 of Laws of 1997.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 701, by Senator Padavan, Senate Print 6835, an act to amend the General Municipal Law, in relation to the salary of full-time police officers.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator

Padavan, Senator Paterson has requested an explanation of Calendar 701.

SENATOR PADAVAN: Thank you, Mr. President.

I think we would all agree that it's desirable to improve the quality and background and the education of our police officers in this state. And what this bill will do, with certain limitations, is allow a local municipality to authorize that one of its police officers attend a college as a student in good standing at least 24 hours a week, receiving at least 16 credit hours of instruction in police law enforcement and criminal justice subject areas while being paid full salary.

There are limitations in the bill, such as the total number of weeks that a police officer could participate in this, no more than 32 in a given year.

Obviously, it's a proposed law that would require local authority, local option. They would have to opt into it or choose not to. Total local discretion.

ACTING PRESIDENT MEIER: Senator

Paterson.

SENATOR PATERSON: Would Senator Padavan yield for a question?

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a question?

SENATOR PADAVAN: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator Padavan, this is such a good idea that my question for you is, why would we not extend this same opportunity to the other uniformed services or even the other municipal employees?

Can you distinguish for us what it would mean to police officers that would give them perhaps value for time served or something that is ameliorating an obligation or a responsibility that police officers have that the other employees do not -- are not responsible for, and therefore it would explain why you would single out police officers in this legislation?

SENATOR PADAVAN: Well, first let me say I would agree with you, in theory, that

I'm sure there are other areas of public service where individuals would benefit by extending their educational background and being schooled in courses that would relate to their employment. And perhaps we should consider that at some future point in time.

But at the same time I would think you would agree with me that police officers, particularly today, with the wide areas of responsibility they have, need that they be sensitized to public concerns and be aware of so many different aspects of the human condition in their daily exposure out on the street in whatever area of police enforcement they are assigned to, that providing an opportunity for them to have this educational opportunity would be of major value to the general public.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: If Senator Padavan would continue to yield.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: Senator Padavan, do you continue to yield?

The sponsor yields.

SENATOR PATERSON: Mr. President, I am an advocate of increased training and a variety of different skill training facilities for police officers. And in fact this conference is sponsoring legislation that would increase the cadet recruitment program.

And we certainly agree with Senator Padavan that in our world as it is today, with the different peoples that make up our state population, with the different cultural patterns that exist in the neighborhoods around our state, that part of the training certainly is an understanding of a variety of issues to contribute to what would be law enforcement. And law enforcement is not just walking around, perhaps with a firearm, protecting people from the vices of other people.

So I think Senator Padavan is right. And he did exercise care in preparation of this bill, particularly with the hours, the limitations. And also Senator Padavan seems to have addressed it in a way that would be palatable to the different

localities by allowing for an opt-out program. So I think that there is a lot of research that went into this legislation.

And yet, Senator, my question really goes back to the whole issue of what different professions would be entitled to based on their relationship to that municipality.

And I would ask you, through you, Mr. President, whether or not you would consider this to be better proposed as legislation or something that I think would be completely appropriate in negotiation with the different police unions. And in those negotiations, I would support the concept.

SENATOR PADAVAN: Well, first let me say that since it is an opt-in program, meaning that a given locality can decide to either take advantage of this opportunity or not, then obviously it could be part of a collective bargaining process. There's nothing that precludes it.

A municipality might say during the negotiations, We will provide this program for your members as part of our agreement, as

authorized by state law. So that is not an issue here.

As it relates to other areas of municipal service, certainly, as I indicated to you earlier, perhaps we should, in consultation with both unions and other organizations that represent those employees, seek to expand this opportunity. And I'm certainly open to that, and would welcome it.

However, today we have focused on law enforcement, police officers, and I think it makes sense to do so.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. And thank you, Senator Padavan.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: It is not my desire to eliminate this idea that Senator Padavan has brought before us today. But I don't agree with Senator Padavan that you need to establish this kind of an opportunity as a matter of law.

I think this is perfectly functional as a negotiated item, as are many negotiated items that exist in labor negotiations. I don't think that you have to have a law that says that police officers during their 40-hour stint must always be actually acting in a way that is commensurate with what are the duties usually discharged by police officers.

I think that police officers while on the job now go to many different types of training courses, they spend a lot of time doing desk duty, they do a lot of things that perhaps might be questioned but are perfectly legal and are certainly perfectly acceptable given the rigors and the difficulties of law enforcement.

So I support the concept but am going to vote against the legislation because I think it establishes a dangerous precedent that we are, as a legislative body, allowing for what would really be an encumbrance that would be put upon localities.

Now, one might say that it's not, because the localities have an opt-out

provision. But I think that living in the world as we do, we know that there is going to be a discussion, a public discussion about why one municipality permits this and why one does not.

And I think actually when that argument is made, it will be correct. I don't think that the police officers in Rockland County should not be able to go to school while working and the police officers, say, in New York City are.

So I think that in New York State it would probably be better to have one policy. If there is going to be a distinction, it should come through the negotiations of labor, and not through law, which at least we would want to think in a situation like this would be even-handed across the board in these situations.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Just briefly, because I don't want to extend the debate here.

First, I have to take some issue

with what Senator Paterson just said. You said there ought to be uniformity when it's done. And that's exactly what we're doing here. So that one police department, should they opt in, will not have one type of program as opposed to another. Whether or not to opt in will be subject to that locality's decision.

And I also disagree with you, public discussion would be healthy if the locality were to enter into dialogue with its governing fathers as to whether or not this is a good idea or not. And that may vary in different parts of the state depending on needs. Certainly the needs in the City of New York may be vastly different in terms of its police force with some small town upstate. So we do provide for that.

But the issue of uniformity, meaning if you do this, the limitations - which are very clearly outlined in here, even penalties, if they fail to continue employment after they finish the course -- we don't want someone to take advantage of this and then leave the police force and the taxpayers have

invested money in them. The bill provides that they will pay that back.

So those kinds of things we want to place on this even playing field.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to ask Senator Padavan a couple of questions.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Thank you, Senator Padavan.

I didn't see in the bill -- and maybe it's just I wasn't reading it right - do you have any requirements for time served before being eligible to participate in this?

SENATOR PADAVAN: No.

SENATOR MONTGOMERY: Okay. And what about residency requirements? In other words, if a police officer in New York City lives in Suffolk County, does that -- or

Nassau County -

SENATOR PADAVAN: This bill does not deal with the policy of that particular police department -

SENATOR MONTGOMERY: So it doesn't require -

SENATOR PADAVAN: -- relevant to residency.

SENATOR MONTGOMERY: -- that you live in the city in order to be eligible for this program.

SENATOR PADAVAN: This is a statewide bill, so obviously that would be quite difficult.

No, it does not deal with residency.

SENATOR MONTGOMERY: Okay. And corrections officers, would you be willing to certainly extend it to corrections?

Because there has been an argument made that one of the reasons that we made inmates ineligible for TAP was because we didn't have the same eligibility for corrections officers.

And so it seems to me that if they

could benefit from this kind of law, there would not be so much hostility emanating from that particular group around the whole question of TAP eligibility for inmates.

SENATOR PADAVAN: In the definition of police officer -- it's Section 209(Q) -- it says, "The term 'police officer' shall mean a member of the police force or other organization of a municipality or a detective or rackets investigator employed by the office of the district attorney who is responsible for the prevention or detection of crime and the enforcement of the general criminal laws of the state, but shall not include any persons serving as such solely by virtue of his occupying any other office or position, nor shall such term include a sheriff" and so and so on.

The way I read this definition of what a police officer is, I do not think it precludes correction officers.

SENATOR MONTGOMERY: So it's very possible that we could include -

SENATOR PADAVAN: Yes.

SENATOR MONTGOMERY: Just one

last question.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for another question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Senator Padavan, since your bill seeks to upgrade the police force, I guess, and essentially provide some kind of compensation beyond just their pay for police officers, would you be willing to include, you know, an amendment which, one, requires residency in order to be eligible for your program, as well as to have some time served, you know, so we're not -- someone doesn't walk in the first class -- I mean, their first year on the force and they're already in the program, versus someone who has served for some time to be eligible?

SENATOR PADAVAN: I would be happy to discuss these future amendments with the Assembly sponsor.

I would say offhand, though, relevant to residency, since this is a statewide bill, the potential to all the

police officers in small towns and villages and other cities in this state, the issue of the residency might be difficult in terms of physically accomplishing that without doing harm to that police department, wherever it might be.

But it is something certainly we could discuss with the Assembly sponsor and those who are obviously involved in this legislation.

SENATOR MONTGOMERY: Okay. Thank you.

Just briefly on the bill.

ACTING PRESIDENT MEIER: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. I see that this -- the concept I certainly agree with.

I believe, however, there should be some restrictions as it relates to the fact that we are now really enhancing a police officer's salary by virtue of offering that person pay for time not being served. And one of those obviously is some time having been served already.

And the other, for New York City in particular, I believe that under no circumstances should we be doing this for any police officer who does not live in that city, since this program would be paid by the City of New York.

So I would have to vote no on this, especially because of that. And hopefully we can have, as Senator Padavan has opened it up to some discussion as to how we can do this in the most equitable manner.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2001.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, has the roll call been completed on that bill?

ACTING PRESIDENT MEIER: Not yet,

Senator.

SENATOR DOLLINGER: I apologize.

ACTING PRESIDENT MEIER: That's all right.

THE SECRETARY: Those recorded in the negative on Calendar Number 701 are Senators Montgomery, Paterson, and Rosado. Ayes, 54. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Dollinger.

SENATOR DOLLINGER: I was at a meeting of the EnCon Committee when a couple of bills were on the floor. If I could have unanimous consent to be recorded in the negative on Calendar Number 713 and Calendar Number 1062, Mr. President.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar Numbers 713 and 1062.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Calendar Number 944, by Senator Larkin, Senate Print 4625A, an act to amend the General Municipal Law, in relation to the establishment.

SENATOR FUSCHILLO: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 962, by Senator DeFrancisco, Senate Print 706, an act to amend the General Obligations Law, in relation to enacting the "Drug Dealer Liability Act."

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MEIER: Senator DeFrancisco, an explanation has been requested of Calendar 962 by Senator Montgomery.

SENATOR DeFRANCISCO: There is probably nothing more destructive in our society than drugs and drug dealing. It not only is a great financial cost to society but it's an incredible cost to individuals.

Some say that the way to deal with this is to decriminalize the use of drugs and therefore get the profit out from the drug

dealer.

This is another approach -- namely, it's called the "Drug Dealer Liability Act" - to take the profit out of drug dealing by providing for a private right of action by those who are affected adversely as a result of the sale of drugs.

And it's a unique bill that first started in Michigan and has been adopted by many other states since 1994, I believe. When I first introduced this bill about three years ago, Michigan, Oklahoma, Illinois, Hawaii, Arkansas and California all had the bill - all had the law. Since then, South Dakota, Utah, Georgia, and Indiana have enacted this.

Basically what it does is it provides a right of action by those who have been injured -- either have become addicted, have lost their lives or have received some injury as a result of drug sales.

And the unique part of the bill is that you don't necessarily have to sue the exact individual who supplied the drugs to the middle person all the way down. It basically sets up a practice, depending on the amount of

drugs that the individual is selling -- the weight of the drugs and the amount of the drugs determines what area they could be held liable for for an individual taking drugs.

For example, if the weight is a certain amount, the area that an individual can sue that drug dealer for if his enterprise is within, for example, Onondaga County is Onondaga County. If it's a greater amount of drugs, then the surrounding counties would be the area that individuals could sue that drug dealer if he's supplying drugs in that area. And if it's statewide -- if it's a certain amount of drugs, then it's considered the area would be statewide.

So it expands the ability to sue drug dealers. We now have provisions that drug dealers have to forfeit sometimes their homes, sometimes the car in which the drugs are supplied. This would even make it more - the drug dealer more vulnerable to losing the proceeds from this illegal activity that's devastating to our society.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: All right. Senator DeFrancisco -- Mr. President, I would like to ask -

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield for a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Okay, thank you.

Just briefly, if the drug dealer is incarcerated and no longer has any assets, what happens then? I was just curious.

SENATOR DeFRANCISCO: Well, it's the same as just about any other lawsuit. I've got a lot of certificates of judgments at home that I put in frames where I can't collect because the person doesn't have money.

But fortunately, some judgments are collectable. Same thing with drug dealers. Some have made a lot of money and show it. And that money can be followed in collection of the judgment.

The first case that was ever done under the Michigan law ended up in a

million-dollar verdict, some of which was collected, against a drug dealer who caused the death -- the drugs caused the death of a crack baby. And the proceeds had to go, unfortunately, to the siblings of the child that died.

But in some cases there are dollars available.

And this is a bill that I think is worthy of passage for the -- I think it's also important to note that there is a companion bill in the Assembly, in Judiciary. Assembly Member Ortiz has it. And hopefully he can move it this year. We passed it last year on the noncontroversial calendar.

SENATOR MONTGOMERY: All right. Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1070, by Senator Goodman, Senate Print 7116, an act to amend the Public Officers Law, in relation to requests for certain records under the Freedom of Information Law.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Thank you.

I'm going to vote no on this legislation. I think that the state's Freedom of Information regulations already have enough exemptions, and I can't believe that none of the current exemptions will cover this technology.

So I'm going to vote no on this so that we don't create any more exemptions for FOIL.

Thank you, Mr. President.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Would the sponsor yield to a question?

ACTING PRESIDENT MEIER: Senator Goodman, do you yield for a question from Senator Hevesi?

SENATOR GOODMAN: I will, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I am curious to know whether the enactment of this legislation would lead to a situation where an agency in its own discretion, without any oversight or independent judgment, could make their determination that they didn't want to, for whatever reason, release the information that has been requested under Freedom of Information and could do so with no appeal to any independent authority.

SENATOR GOODMAN: No, Mr. President.

If I may, I was not asked to explain the bill. I think I'd best do that so that we can have it clear what this is about.

The bill permits an agency to deny from public disclosure the records which could facilitate unauthorized access to the agency's highly technical information.

Technology assets are of course significant, and we do not wish to have, in the case of technologically oriented agencies of the state government, any opportunity for people that have a passkey into their materials, because obviously this would not be desirable from either a public or an agency point of view.

So that this relates specifically to highly technical information. It would not open the door to generalized circumvention of the Freedom of Information Act.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President, if the sponsor would yield to the same question that I asked initially.

ACTING PRESIDENT MEIER: Senator

Goodman, do you yield for a question?

SENATOR GOODMAN: I will.

And you want me to yield to the same question?

SENATOR HEVESI: Yes.

SENATOR GOODMAN: I thought I responded to it.

SENATOR HEVESI: And I appreciate the explanation.

The question is on its own can an agency say no, this would facilitate unauthorized access, and that is the -- that's it, there's no -- a judge cannot overrule, that's it. That's my question.

SENATOR GOODMAN: The answer is that if there's technological information of a sensitive nature, that the agency can do so, that is correct.

SENATOR HEVESI: Okay. On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: I fully appreciate what Senator Goodman is attempting to do here.

But I'm a little bit concerned because we happen to have some agencies in the State of New York which are loath to give out information, information that many residents of this state couldn't explain why the agencies would be loath to give it out.

And therefore individuals very often request these agencies, through the FOIL procedure, to provide the information, to compel the agencies to give the information.

And if by definition the agencies didn't want to do it in the first place, I'm very concerned about giving them a tool with which to reject it when they are officially requested to do so under FOIL, when they're compelled to do so.

And I'm not going to vote yes on this legislation, Mr. President, despite the fact that I am concerned with information that could be released that would compromise an agency's technological assets.

But we have a situation in New York State where agencies I believe will use this to prevent people from gaining access to information just because it is their

prerogative not to give out that information. And that's a dangerous -- a dangerous thing.

And I understand from reading the sponsor's memo that there is currently some measure of security with which an agency cannot be compelled to give out information which would compromise the information technology structure of that agency, notably the security access codes.

So I wish this legislation was a bit better drafted, and I wish there was some more oversight that an agency in its own discretion could not just simply decide, no, we're not going to give out that information, it's not in the public interest, because it could compromise someone's -- the agency's safety.

Because I don't want to leave that in the discretion of an agency that's not inclined to do it in the first place. That's why we have FOIL.

And unfortunately, this situation is very acute in the City of New York, where city agencies almost continually have to be compelled to provide information. They never

give out information -- even information, interestingly, which would reflect positively on the performance of those agencies. It's just the culture in the administration of the City of New York: They don't give out information, no matter what. They have to be compelled to do it.

So I don't want to give them any additional tools to reject the compulsion because they just feel like it. That's a dangerous place to go. I think we need to protect the integrity of freedom of information.

As a result, I vote no, Mr. President. But understand that I wish we had a piece of legislation before us that would more sufficiently protect both concerns in this instance.

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT MEIER: Senator Goodman.

SENATOR GOODMAN: I would make one further comment in response to what we've just heard, which is this. That at the moment, as you know, if there is a violation

of the Freedom of Information Act, there are all sorts of remedies available through the normal course of law.

The same remedies would be available in this circumstance if it could be demonstrated that an agency's response was capriciously negative and was not based upon technological-information protection.

Accordingly, I think the attack on the bill is not justified.

And I'd like to point out that at the present moment there is a current situation in which the law exempts from public disclosure an agency's computer access codes.

This takes it one step further, to say that if there is technological information of a sort that could result in leakage of economically important information, that the law could then be employed.

Should the law be inappropriately applied, you have the same remedies as you would for any violation of the Freedom of Information Act. It is not a generic ability to circumvent the law, as you seem to suggest.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1070 are Senators Dollinger, Duane, Hevesi, Onorato, A. Smith, and M. Smith. Ayes, 51. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee, that completes the controversial calendar.

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

ACTING PRESIDENT MEIER: No, there is not, Senator.

SENATOR McGEE: There being no further business to come before the Senate, I move we adjourn until Wednesday, May 17th, at 12:30 p.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, May 17th, at 12:30 p.m.

(Whereupon, at 11:55 a.m., the Senate adjourned.)