ALBANY, NEW YORK

March 29, 1996

11:02 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, staff their seats. Ask everybody in the chamber to rise and say the Pledge of Allegiance to the Flag with me.

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

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

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Thursday, March 28th. The Senate met pursuant to adjournment, Senator Hoblock in the Chair. The Journal of Wednesday, March 27th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no 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 Bruno, that brings us to the calendar.

SENATOR BRUNO: Mr. President, can we ask for a Finance Committee meeting immediately in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of Senate Finance Committee in the Majority Conference Room, Room 332. An immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332.

Senator Bruno.

SENATOR BRUNO: Mr. Bruno, can we at this time take up the non-controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the non-controversial calendar.

THE SECRETARY: On page 14, Calendar Number 389, by Senator Saland, Senate Print 2115.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 481, by Senator Goodman, Senate Print Number 911, an act to amend the Vehicle and Traffic Law, in relation to allowing parking violation bureaus to increase the fine for illegal parking.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the non-controversial calendar.

THE SECRETARY: Calendar Number 483, by Senator Maltese, Senate Print 4344-A, an act to amend the Vehicle and Traffic Law, the Criminal Procedure Law and the Tax Law, in relation to penalties for failing to answer a traffic summons.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 499, by Senator Johnson, Senate Print 4469, an act to amend the Election Law, in relation to the transmitting of certain information in

computer readable form by the Department of Motor Vehicles.

SENATOR STACHOWSKI: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 501, by Senator Levy, Senate Print Number 372, an act to amend the Vehicle and Traffic Law, in relation to increasing the penalties for aggravated unlicensed operation of a motor vehicle.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 506, by Senator Trunzo, Senate Print 6181, an act to amend the Vehicle and Traffic Law, in relation to allowing persons to indicate an emergency contact person.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect one year after it shall have become a law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 514, by Senator Johnson, Senate Print 1987, an act to amend the Domestic Relations Law, in relation to visitation rights to infant grand children.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the -- oh, excuse me. Secretary will continue to call the non-controversial calendar.

Senator Bruno, that completes the non-controversial calendar.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar beginning with Calendar Number 389.

THE SECRETARY: On page 14, Calendar Number 389, by Senator Saland, Senate Print 2115, an act to amend the Family Court Act, in relation to the placement of children

upon disposition of child protective proceedings.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Saland, an explanation of Calendar Number 389 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR SALAND: Mr. President, is this the only bill on the controversial calendar, because if not, I'd like to have it laid aside temporarily.

ACTING PRESIDENT KUHL: No, there's one other.

SENATOR SALAND: May I request it be laid aside and return to it.

ACTING PRESIDENT KUHL: The bill will be laid aside temporarily.

Senator Paterson, why do you rise?

SENATOR PATERSON: That's all right. It was really just a brief question. If Senator Saland would -- why don't we lay it aside and I'll go and see Senator Saland.

ACTING PRESIDENT KUHL: That sounds like a good idea, Senator Paterson. The bill will be laid aside.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 499, by Senator Johnson, Senate Print 4469, an act to amend the Election Law, in relation to the transmitting of certain information in computer readable form by the Department of Motor Vehicles.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, Senator Johnson I believe is out of the chamber and if we can lay that bill aside temporarily and I believe Senator Saland is here now and may be prepared to take up his bill.

ACTING PRESIDENT KUHL: Calendar Number 499 will be laid aside temporarily. We'll return to Calendar Number 389. I'll ask the Secretary to read.

THE SECRETARY: On page 14, Calendar Number 389, by Senator Saland, Senate Print Number 2115, an act to amend the Family Court Act, in relation to placement of children.

ACTING PRESIDENT KUHL: Senator Saland, previously an explanation of this bill had been asked for by Senator Paterson. If you would so explain.

SENATOR SALAND: Thank you, Mr. President.

What this bill endeavors to do is, in the case of child protective proceedings where there has been a -- a placement, the placement is by law defined as being limited to one year. Those placements may be subsequently renewed by the court.

What this bill does is, it carves out an exception to those one-year placements and says that where the child who has been the subject of the proceeding is placed in the custody of a relative or other suitable person, the court may continue that order pending the

further order of the court which would enable the placement to be extended for more than one year in those limited number of cases.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator Saland, the Legal Aid Society has a memo in opposition, and I was wondering if you might respond to it for me, so I can understand. Their concern has to do with an annual review of these types of placements so that maybe we might not want to restrict the placement to one year but perhaps the Legal Aid Society is saying they want to continue the review.

SENATOR SALAND: Well, I'm not familiar with the -- the opposition memo. I believe this to be a narrow exception in the sense that we're carefully attempting to proscribe the placements to people who are relatives of the child or some other person determined to be a suitable surrogate for purposes of the child's placement.

I'm -- I would think that the

type of -- of follow-up that the Legal Aid memo is seeking might turn out to be superfluous in this type of an environment. There certainly would be nothing -- there would be nothing that would prohibit the court from directing that particular type of review, but I would not want to bind the court to that in this narrow class of cases.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator. If the Senator would yield for just one further question.

SENATOR SALAND: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, would you, describe this bill as a part of a desire to provoke... to promote non-foster care placement of children in situations where the parent is unable to be the active guardian? The reason that I ask the question is because, as we are

limiting foster care resources in the budget, I would suggest that it might be somewhat restrictive in the sense that not all families, not all children have the resources that those who have relatives that can take them have, and I'm just hoping, because I think this is otherwise a good bill, so I'm just hoping that this is not just a philosophy that this should happen, but what would be more of something that can be permissible when it actually exists, but what I'm cautioning is that this should not be a general philosophy of what should be the placement of children when the parents are unable to serve.

SENATOR SALAND: You ascribe to me a far grander design or agenda than I could possibly have contemplated. This is merely an effort to recognize in those situations where a placement is made with someone who is relatively close to the child that the court would have the ability to provide for a lengthier placement. There is no underlying agenda that's intended somehow or other to create the type of scenario

to which you allude.

SENATOR PATERSON: Well, thank you, Senator. In that case, I recommend unanimous adoption.

SENATOR SALAND: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 499, by Senator Johnson, Senate Print 4469, an act to amend the Election Law, in relation to the transmitting of certain information in computer readable form by the Department of Motor Vehicles.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, an explanation of the bill has been asked for by Senator Stachowski.

SENATOR JOHNSON: Mr. President, the motor-voter registrations that come through the Motor Vehicle Department are made in paper duplicates, and these paper duplicates are normally sent to the local board of elections.

Now, our board is anticipating a lot of applications. They received a lot of applications. They don't have the staff to take all this paper and compute it, put it into computer form so it can be printed out and available expeditiously. So this bill simply asks if, since the Motor Vehicle Bureau does put the stuff in their computer, they should communicate it to the county Board of Elections of Suffolk County by computer right into our records without all the attendant paperwork and paper shuffling that would be required without the passage of this bill.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Senator, Mr. President. I was waiting for Senator Dollinger. He's not in the chamber but I think we can go ahead without him, if Senator Johnson is willing to yield to a question.

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to Senator Johnson Paterson?

SENATOR JOHNSON: Yes, yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Johnson, if Senator Dollinger were here I imagine he would say to you that this is a great idea, it's a terrific idea, and it's great that we're having it in Suffolk County, but what about extending this kind of thing to places like Rochester or Orange County, or maybe Ulster County or Onondaga County? In other words, this is a good idea, but why aren't we doing this for all counties around the state?

SENATOR JOHNSON: Well, of

course, Senator, it would be presumptuous of me residing in Suffolk County, and being familiar with the advanced state of computerization in my county, to assume these other counties might be on a level to take advantage of this opportunity.

But, on the other hand, Senator, this bill has been on the calendar or in this house for a year, and others have suggested that when this was passed a year ago, and -- and certainly I had no objection to them introducing a bill and I would be supportive of their bill but it would be, as I say, presumptuous of me to put another county with which I'm not familiar into this bill.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator would yield for just one final question.

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to another question?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Well, Senator, one of the rather consistent approaches that's used in this chamber is to pass this legislation and leave it to the discretion of the county as to whether or not they would like to implement it, and I would imagine that since your bill passed last year with only one exception, that that would at least be an indication that there would be a favorable determination on this type of issue, so I would just want to suggest that you consider leaving it open -- leaving it optional for the counties but providing it so that we don't have to come back and pass 61 other separate bills just to accomplish this purpose.

SENATOR JOHNSON: Senator, I -- I think I answered your question, and I certainly think that the representatives of the balance of the counties in our state are very capable, intelligent legislators and, if they felt their counties wanted this, or it would be beneficial

they would be the first to introduce such a bill and make such a request, but, Senator, since last year I haven't heard a word from anyone. So I can only assume that since our county asked for it and registrations are coming in hot and heavy, that they ought to have the opportunity to implement this type of a program in the county, the only county which has requested it.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, we have a couple of motions we could do at this time if you'd like to return to motions and resolutions.

SENATOR SKELOS: O.K. Yes, Mr.

President.

ACTING PRESIDENT KUHL: We'll return to motions and resolutions. The Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Yes, Mr. President. I wish to call up my bill, Print Number 6149, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator DiCarlo, Senate Print 6149-A, an act to amend the Real Property Tax Law, in relation to the exemption from real property taxation.

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

ACTING PRESIDENT KUHL: Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: Senator

DiCarlo.

SENATOR DiCARLO: I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and donated.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I wish to call up, on behalf of Senator Velella, print bill, Print Number 5742, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Velella, Senate Print 5742, an act to amend the Insurance Law, in relation to establishing a mandatory minimum coverage.

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

ACTING PRESIDENT KUHL: Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: Senator DiCarlo.

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

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT KUHL: You're absolutely correct, Senator Skelos. We'll return to reports of standing committees. I'll ask the Secretary to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following bill:

By Senator Hoblock, Senate Bill 6773, an act to provide a retirement incentive for certain public employees.

ACTING PRESIDENT KUHL: Without

objection, bill is ordered directly to third reading.

Senator Skelos. Or, Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like the record to show that had I been in the chamber when Calendar 390 was voted on by the house, I would have voted in the negative.

ACTING PRESIDENT KUHL: The record will reflect, Senator Montgomery, that had you been in the chamber when Calendar Number 390 was brought to the floor for a vote, that you would have voted in the negative.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could take up Calendar Number 606, Senate 6773, which was reported from the Finance Committee.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 606, by Senator Hoblock, Senate Print 6773, an

act to provide a retirement incentive for certain public employees.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk.

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

ACTING PRESIDENT KUHL: The message is accepted.

Senator Skelos.

SENATOR SKELOS: Can we now take up Number 607, Senate Number 5594-A, and I believe Senator Hoblock would like to give an explanation.

I correct my previous statement, Calendar Number 606.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: It's already read.

ACTING PRESIDENT KUHL: It has been read, to the floor, accepted the message. The Chair recognizes Senator Hoblock.

SENATOR HOBLOCK: Thank you, Mr. President.

A couple of days ago, we passed a bill that was referred to as an early retirement incentive piece of legislation, and we now have this piece back before us, and what the differ ence is basically is we have an agreed upon bill between the Assembly, the Governor's office and this house, on an early retirement incentive.

Last year, the Legislature, with the approval of the Governor, likewise had an early retirement incentive which was quite successful given the adoption of the Legislative Budget, having some 5,000 employees take advantage of that legislation.

This year we again have an early

retirement incentive with a little different spin on it in that it gives a great deal more management flexibility, so those that want to take advantages of the incentive will be able to do and, at the same time, to continue to maintain those positions that are important to the operation of state government.

We don't know yet obviously because we have not adopted a budget, as to the impact in numbers of the affected employees at the state level, but this bill also includes non-stated employers at their option and that's particularly local governments, counties, towns, villages and school districts.

It's a considerable advantage, because what it does is it allows government at all levels to continue its right-sizing, if you will, and at the same time to protect those employees by minimizing, if not totally elimin ating the need for layoffs and taking people out of their jobs.

The bill also contains an appropriation of $25 million which will be -

which is included in the Executive's proposed budget to cover the first year cost of this program at the state level, but again it's an option at local government. It's a significant management tool for local government at all levels to continue to operate with the maintenance of the essential positions and allow those that want to retire to do so giving them that flexibility.

So with that, I want to thank the staffs of both the Assembly and Senate and the Governor's office for working very diligently in the last couple of days to come up with a compromise that we have before us, and I request that the bill be moved.

ACTING PRESIDENT KUHL: Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would ask if the sponsor would yield for a question, clarification.

ACTING PRESIDENT KUHL: Senator Hoblock, do you yield to a question from Senator Montgomery?

SENATOR MONTGOMERY: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Senator Hoblock, on page 3 of the support memo, there is an example of what would happen in the case of an eligible Tier I employee under this bill. Could you give me an example of what would happen with a Tier II employee. I understand that there are a number of state employees who are in Tier II and might also be -- would like to take advantage of this early retirement. Would they lose any of their benefits under this, or would they also be as per your example here, would they receive the full benefit of retirement under this bill?

SENATOR HOBLOCK: Well, the question is, because the Tier II have a retirement age of 62 as opposed to 55?

SENATOR MONTGOMERY: That's right. That is correct.

SENATOR HOBLOCK: I'm told, Senator Montgomery, that the 62 to 55 would

apply. The reduction would occur if they're under the age of 55.

SENATOR MONTGOMERY: So, in other words, the bill allows them to retire at age 55?

SENATOR HOBLOCK: Yes.

SENATOR MONTGOMERY: O.K. Thank you.

ACTING PRESIDENT KUHL: Senator Leichter, did I see that you wanted the attention of the chair.

Senator Leichter.

SENATOR LEICHTER: Yes, Senator Hoblock, if you would yield, please.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, as I understand it, the bill covers both the executive branch, covers local government, and it also covers the Legislature; is that correct?

SENATOR HOBLOCK: That's correct.

SENATOR LEICHTER: And am I also correct that it establishes various standards as

to the monetary savings that will be achieved upon early retirement and that's actually one of the conditions for proceeding with the early retirement?

SENATOR HOBLOCK: That would be in those titles that are defined as not eligible. That's correct.

SENATOR LEICHTER: Right, and there's a specific standard set forth for the executive, is that correct?

SENATOR HOBLOCK: The Executive Department?

SENATOR LEICHTER: Yes.

SENATOR HOBLOCK: Yes, as far as eligible titles.

SENATOR LEICHTER: Right, and there is also a standard in regard to the savings that is set up for local government; is that correct?

SENATOR HOBLOCK: If they -- if they choose to opt in.

SENATOR LEICHTER: Right. And is there a standard set up for the Legislature in

case the Legislature -- either of the branches of the Legislature chooses to opt in?

SENATOR HOBLOCK: I'm told that the Legislature and the judiciary will have the choice of adopting the standards of the state Executive Department criteria, local government criteria or establishing other.

SENATOR LEICHTER: Thank you, Senator Hoblock. That's what I'm really trying to get to. I'm trying to understand why there is a more flexible or if you will, a laxer standard for the Legislature than there is for the executive.

SENATOR HOBLOCK: That basically was an agreement between the Assembly, the Senate and the Governor's office in order to come to conclusion covering those two branches.

SENATOR LEICHTER: Senator, while I'm sure you couldn't find three wiser men than the ones that you've just mentioned, nevertheless it remains for mortals like you and me to have to vote on the bill to try to understand and to justify it, and I just

wouldn't want to think that the Legislature has a more generous or favorable position than local government or the Executive Department.

SENATOR HOBLOCK: Well, it's - it's probably a couple of better steps, Senator Leichter, in that last year there was no standard in terms of them having to come up with anything and, secondly, if in fact they are exercised, I would think that -- that is the Legislature and the judiciary -- they're going to have to handle it within the appropriated budgets that we -- we give them, so that is going to be some curtailment to a certain degree as to what they're going to be able to do.

SENATOR LEICHTER: Mr. President, if Senator Hoblock would be good enough to yield.

SENATOR HOBLOCK: Sure.

ACTING PRESIDENT KUHL: Senator Hoblock, continue to yield? Senator yields.

SENATOR LEICHTER: Senator, I appreciate your explanations. I'm just concerned as I'm sure you are. I would not want

to go to the public and say, Well, you know, we're the Legislature and, therefore, we're entitled to a special status and a very favorable position and we're not really bound by the same standards as other parts of government are bound by, and somehow I have difficulty not explaining this or justifying why we have a much more lenient standard than the executive.

SENATOR HOBLOCK: Well, we are going to have to adopt a resolution to authorize this incentive for the Senate, as the Assembly will have to do and at that particular point, your suggestions and others can be incorporated into that resolution because there will have to be standards, whether they will be as for the Executive Department or for local government, something in between, or something different. Will have to be decided by resolution.

SENATOR LEICHTER: Yes, Senator Hoblock, if you would continue to yield, please?

SENATOR HOBLOCK: Sure.

ACTING PRESIDENT KUHL: Senator

continues to yield.

SENATOR LEICHTER: In regard to the judiciary, is the judiciary covered by this also?

SENATOR HOBLOCK: Yes, it is.

SENATOR LEICHTER: And does the judiciary have to opt in, or is the judiciary automatically made part of this early retirement system?

SENATOR HOBLOCK: They have to opt in.

SENATOR LEICHTER: And when they opt in, do they have the same leeway as to the savings that are to be achieved as the Legislature has?

SENATOR HOBLOCK: Yes. I am told.

SENATOR LEICHTER: It's the same, they can do it either the way the executive, they can do it the way local government does or they can do it in some -- in some other fashion.

SENATOR HOBLOCK: That's

correct.

SENATOR LEICHTER: And that is - and, Senator, is that their choice, they can do that by however decisions are made for the judicial branch, whether by the Judicial Conference or some -

SENATOR HOBLOCK: Yes, that's - that's true, but again they're going to have to live within their budget, and that's the agreement between the judiciary and both houses, that's correct.

SENATOR LEICHTER: O.K. Thank you very much, Senator Hoblock.

Mr. President, I have no problem with early retirement, though I think that it often means that we lose some of our best people from government. We lose some of our best people at SUNY and CUNY, so there's a cost to it. There's a cost that can't always be calculated just in terms of, Oh, I've saved so many dollars. You may lose something in the nature of the performance by government. You may have a teacher in class who's not anywheres

qualified as the person that they replace, but my particular concern was that we not put the Legislature on a pedestal, that we not say, Well, the Legislature isn't subject to the laws as anyone else.

I accept Senator Hoblock's explanation, and I think he did as well with it as could be done, but I have a sneaking suspicion that by this bill the Legislature is doing what it has done in other instances, says, Hey, we're the Legislature. We have a special status.

I do hope that's not the case, but -

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stavisky.

SENATOR STAVISKY: Will Senator Hoblock yield?

ACTING PRESIDENT KUHL: Senator Hoblock, do you yield to Senator Stavisky? Senator yields.

SENATOR STAVISKY: Will the sponsor please indicate how this legislation

affects SUNY and CUNY faculty and other personnel?

SENATOR HOBLOCK: Well, my understanding is that, first, SUNY would have to opt in. The position need not be eliminated, but there needs to be a demonstration of the 50 percent savings.

SENATOR STAVISKY: Senator Hoblock, isn't it true that in the SUNY trustees' report "Rethinking SUNY" on issues of governance, it was the announced purpose of that report that they would strengthen and improve SUNY standards vis-a-vis excellence and that that was the purpose of the "Rethinking SUNY" report on governance? Wasn't that the stated purpose?

SENATOR HOBLOCK: That's -- that was their stated purpose.

SENATOR STAVISKY: Well, that was what the report purported to offer, and it seems to me that, when there is a -- an assumption in this bill that the most experienced, most qualified faculty at SUNY and CUNY may disappear

under this early retirement, that the only standard -- and this is not a standard of excellence, this is a standard of dollars -- the only standard that is provided is that the new hirees will not be paid more than 50 percent of what the former faculty members received in serving SUNY and CUNY. Am I correct?

SENATOR HOBLOCK: Well, Senator Stavisky, I think that the whole issue of early retirement for the SUNY system, like local governments, is at their choice. They don't have to do it. It's not like we're eliminating positions or forcing them into it. If they feel that they need to maintain that excellence with the people they have, they can keep going. It's not like we're telling them they have to do that. We're not eliminating those positions.

SENATOR STAVISKY: It seems to me that this is a plan for early retirement which is at variance with the avowed purpose of the SUNY "Rethinking SUNY" report issued by the trustees, that in fact we're saying it doesn't matter if the new people are not as qualified,

only if they are willing to work for no more than half of what the previous employees' salary was, and that doesn't necessarily guarantee improvement to quality. It means an improvement in the cash flow.

At the very same time that that report suggests the reduction in state support for higher education and that report also suggests increasing the tuition charged to the students, isn't the end result of all of this that the students may be paying more money for tuition for faculty services which would be of lesser quality than they had before? I ask you to reconcile these two avowed purposes.

SENATOR HOBLOCK: Well, Senator Stavisky, I'm having a little difficulty coming to that reconciliation because I'm not sure that the area and the issues that you're raising really have anything to do with this legislation.

Again, we are not forcing anything on SUNY. We are giving them that option and if, in fact, they choose to do

something internally, that is their choice. Whether -- I don't see how this legislation is in any way affecting through an involuntary way the quality of services provided by SUNY. It's just providing them a mechanism should they choose to do so.

Now, if it's your opinion that we should not even do that, that's your opinion.

SENATOR STAVISKY: I -- on the bill.

What I am suggesting, Mr. President and Senator Hoblock, is that on the one hand we are promising more flexibility to SUNY in order that the SUNY trustees' plan which guarantees higher quality and higher standards will be implemented, and yet at an expense of higher tuition rates for the students attending SUNY and CUNY, without any assurance that the quality and experience of the new faculty members that are hired will even begin to match what they presently have.

So what they're getting is less quality for higher tuition, and that's the sad

conclusion that we have to arrive at in looking at this piece of legislation against the back drop of what the SUNY trustees have promised. They promise that, if they are able to raise tuition, that there will be higher standards. There will be greater quality in the State University system, but the higher quality may, in fact, result in a faculty with lesser qualifications while the students are forced to pay more money, the third round of increases in tuitions in recent years, and I think that that is hardly in keeping with the lofty promises of the SUNY trustees with regard to what their "Rethinking SUNY" plan called for.

I think the students are going to be socked and their parents obviously too. They'll be socked with a higher tuition rate and will necessarily not have the experienced faculty members that are there now, let alone any improvement in the faculty members.

This is not to say that new faculty members may not have skills, may not have ingenuity, may not have a desire to excel,

but there is nothing with regard to faculty standards in this legislation, only with regard to saving money, and the saving money comes at the same time that the students and their families all over the state, by the way, will be forced to pay more money on tuition for enrolling in SUNY courses.

Now, that's a conflict that the members of this Legislature will have to face if the SUNY plan for governance is put into effect, because your constituents, the students, their parents, and others who are paying locally for the costs of higher education may, in fact, find that they're getting less while spending more for tuition, and I would ask you to review the impact that it has on your constituents, my constituents, all of our constituents, in the name of higher standards of quality.

Yes, they are saving money. No, they are spending more money when it comes to the students and their parents, and there is no guarantee in this legislation, nothing I can see which guarantees comparable experience or

qualifications for the new people who are hired.

Are they going to be the equivalent of graduate assistants who will be replacing senior tenured faculty members? I fear that in many cases that will be the consequence of this legislation. We know what we have. We are not sure about what we will get, and you have to consult your own constituents to see how that washes with them, now that they're going to have to be paying a bigger bill for tuition.

I may yet vote for this legislation because of the fiscal crisis facing the state, but it seems to be at variance with the avowed premise and promises of the SUNY trustees.

ACTING PRESIDENT KUHL: Senator Bruno? Senator Bruno, on the bill.

SENATOR BRUNO: On the bill.

Mr. President, my colleagues, I just wanted to make a comment on how important this piece of legislation is to so many of the employees that will be affected in a very

positive way, and I want to commend the Governor in his wisdom in preparing a budget and helping with this piece of legislation in taking the lead and the intent, of course, is that there not be layoffs, that people are able to make their own judgments, their own decisions in leaving the work place, wherever that might be, and the legislation allows local option in terms of who will participate in that respect.

So while there may not be any perfect vehicle, we should note for the record that an alternative could have been layoffs that would affect people very negatively, and that is more widespread than the individuals that are affected.

So again, I want to commend the Governor. I want to commend Senator Hoblock, who took the lead with the chair of the committee, Senator Trunzo, to help orchestrate and put together this piece of legislation that will have such a positive effect on so many people throughout this state, allowing them to make judgments for their own health, for their

own welfare, and going on with their lives.

So, Mr. President, I am pleased and proud that this piece of legislation is before us, and I certainly intend to vote in a positive way, and I would encourage my colleagues to do the same.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, we are waiting for one more piece of legislation that relates to the debt service for the state, and it's important that we pass it today if we

can. I understand that there was a delay in printing, but we are expecting it momentarily. So I would ask that the Senate stand in recess -- at ease -- I am sorry, we are not recessing -- at ease for just a few minutes, and I believe the legislation will be here and we can take it up and then do whatever else is important in our lives.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon at 12:48 p.m., the Senate stood at ease.)

...At 12:55 p.m...

ACTING PRESIDENT DiCARLO: Senator Skelos, why do you rise?

SENATOR SKELOS: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT DiCARLO: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

SENATOR SKELOS: And the Senate will continue to stand at ease.

ACTING PRESIDENT DiCARLO: And the Senate will continue to stand at ease.

(Whereupon, at 12:36 p.m., the Senate reconvened.)

ACTING PRESIDENT KUHL: Senate will come to order.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there is a report of the Finance Committee at the desk.

ACTING PRESIDENT KUHL: There is, Senator Skelos.

We will return to reports of standing committees.

I will ask the Secretary to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following bill:

Senate Print 5594A, Budget Bill, an act making appropriations for legal requirements to the state debt services.

ACTING PRESIDENT KUHL: Senator Skelos, without objection, the bill is ordered directly to third reading.

SENATOR SKELOS: Will you please take up Calendar 607, Senate 5594A, which was just reported from the Finance Committee.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar 607, Budget Bill, Senate Print 5594A, an act making appropriations for the legal requirements of the state debt service.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity which is at the desk.

All those in favor, signify by

saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Senator Dollinger to explain his vote?

SENATOR DOLLINGER: Explain my vote.

ACTING PRESIDENT KUHL: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Mr. President, I asked in the Finance Committee whether this included any new authorizations for debt by the state of New York and was told that it did not. This was simply fulfilling our debt

obligations. I support it on that basis. I just wanted to suggest to my colleagues that if there is new back-door borrowing in the state in any portion of it, it would be my intention to vote against that new back-door borrowing.

So I'm voting in favor of this item but simply reserving my options to a later date.

ACTING PRESIDENT KUHL: Senator Dollinger will be recorded in the affirmative.

Announce the results.

Senator Gold to explain his vote after he picks up his Pepsi can.

SENATOR GOLD: You putt better than I do. I can see that.

Mr. President, I am really very delighted that we are passing this piece of legislation. I know that there have been delays in past years in the budgets and that this year again we are not on time, and I don't want to have a whole political discussion as to that. I know Senator Bruno is quoted in the papers today, giving his explanation, which I think is

naive to say the least.

The point is that this is an important bill, and I think the reason why our conference was very adamant about passing it is the following:

The state of New York always pays its debts, yet there are people who sit in back rooms with charts and computers and whatever and they find 16 reasons to Sunday why we should either not have the state's bond rating increased, why we should not have the interest levels dropped, or why they should be increased, none of which makes any sense when you take a look at the history of the state in paying its debts.

So I think that what we're doing today, even though the budget itself is delayed, is eliminating any excuse that Wall Street may have for suggesting that New York State is not anything other than an excellent credit risk.

So it's with that in mind that I vote for this bill.

ACTING PRESIDENT KUHL: Senator

Gold will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: I believe there are some substitutions at the desk.

ACTING PRESIDENT KUHL: There are, Senator Skelos. I'll ask the Secretary to read.

THE SECRETARY: On page 20, Senator Kuhl moves to discharge from the Committee on Agriculture, Assembly Bill Number 5430 -- or 9430, excuse me -- and substitute it for the identical Senate Bill 6188.

On page 22, Senator Cook moves to discharge from the Committee on Education Assembly Bill 9041 and substitute it for the identical Senate Bill 6272.

On page 5, Senator Farley moves to discharge from the Committee on Banks Assembly Bill 8466 and substitute it for the

identical Senate Bill 4933.

SENATOR SKELOS: Move the substitutions.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Chair recognizes Senator Hoblock.

SENATOR HOBLOCK: Mr. President, request the removal of the sponsor's star on Calendar Number 207, Bill 5137A.

ACTING PRESIDENT KUHL: At the request of Senator Hoblock, the star will be removed on Calendar Number 207.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, please recognize Senator DeFrancisco.

ACTING PRESIDENT KUHL: Return to motions and resolutions.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, a very important event is going to start unfolding tomorrow at the Meadowlands, and

I understand that we have -- I have started preparing a resolution which basically is going to be an upbeat resolution indicating their success in the final four, and we're waiting until after the final four to unveil that resolution, and I will offer it after the event.

However, I think it's also proper to urge that the team do well, and it's my understanding that there is a motion -- a privileged resolution, I should say, at the desk sponsored by Senator Hoffmann, and I would request that that be -- that you would recognize Senator Hoffmann with respect to that resolution.

ACTING PRESIDENT KUHL: Senator DeFrancisco, I was listening very intently being an alumnus of Syracuse, and I didn't hear you mention the name of the most prominent team in the final four as being the Syracuse University Orangemen.

The Chair would recognize, based on that, Senator Hoffmann.

SENATOR HOFFMANN: Mr. President, perhaps it would be appropriate for the resolution to be read into the record and offered for cosponsorship to all members of the Senate, by yours truly and Senator DeFrancisco, as a proud alumnus of Syracuse University.

ACTING PRESIDENT KUHL: There is a privileged resolution at the desk. I'll ask the Secretary to read the title.

THE SECRETARY: By Senator Hoffmann, Legislative Resolution, commending Syracuse University's men's basketball team upon the occasion of finishing in the NCAA's final four.

SENATOR GOLD: In honor of my sister, I would like to be on the resolution.

SENATOR SKELOS: Mr. President. I was wondering if Senator Hoffmann would allow all the members of the Senate to cosponsor this wonderful resolution.

SENATOR HOFFMANN: Right. Senator Skelos, I had indicated earlier that I would like very much to see it cosponsored by

all members and, since it is Syracuse University and the city of Syracuse is jointly represented by two Senators, I think Senator DeFrancisco and I would be the appropriate cosponsors on this resolution, and I hope that in the -

SENATOR SKELOS: I appreciate that, and I know that Senator DeFrancisco on Monday or Tuesday with his resolution will be offering it up to sponsorship by all the members of the Senate, and we appreciate that also, in anticipation, Senator DeFrancisco.

SENATOR HOFFMANN: As we adjourn today, I can think of no better way for us to send our good wishes to the Orangemen, and I look forward to a victorious Saturday and Monday as do all other members of Syracuse University, its alumni and this Legislature.

Thank you.

ACTING PRESIDENT KUHL: Senator Skelos, should we put all the members of the Legislature on the resolution?

SENATOR SKELOS: Absolutely. If there's no objection, they should be.

ACTING PRESIDENT KUHL: I don't know if there are any other alumnus of those other three schools here, but we'll put all members on the resolution except for those who don't want to be on the resolution. If those people who don't want to be on the resolution could indicate that to the Secretary, then we'll remove their names from the resolution.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd like to speak on the resolution.

ACTING PRESIDENT KUHL: Senator DeFrancisco on the resolution.

SENATOR DeFRANCISCO: As not only an alumnus but a former ball player, although a smaller team, baseball team, and also a season's ticketholder who has gone to just about every game in the last ten years, including the last final four when we were disappointed with the last-second shot by somebody from Indiana whose name we will never put on this record, I am very hopeful that this trip down to the final four at the Meadowlands is going to be a successful

one. Coach Boeheim has done a wonderful job with a lot of people who have overachieved and they've played with team spirit, just like this body shows from time to time, overachievers and also team spirit.

So I'm looking forward to being there, and I'm looking forward to rooting the Orangemen on, and I'm looking forward to presenting a resolution after the tournament which will congratulate the new national champion, Syracuse Orangemen.

ACTING PRESIDENT KUHL: The question is on the resolution.

Senator Dollinger, do you wish to speak on the resolution?

SENATOR DOLLINGER: Mr. President, I'd just like to join Senator Hoffmann and Senator DeFrancisco. When the Orangemen go to New Jersey, they will be riding in part on the shoulders of Greece-Athena's finest graduate, John Wallace, and I certainly wish him well.

Senator DeFrancisco, when you

bring the resolution forward congratulating the Orangemen on their national championship, I hope it will be because John Wallace will have been the Most Valuable Player in the final four.

ACTING PRESIDENT KUHL: Question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President. Is there any other housekeeping at the desk?

ACTING PRESIDENT KUHL: There is none, Senator Skelos.

SENATOR SKELOS: There being no further business, I -

ACTING PRESIDENT KUHL: Oh, excuse me. Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President,

this is actually the deadline date by which motions for discharge would be filed in the chamber; however, with the gracious consent of the Majority, we postponed them, and we will have them on April, 16th day -- April 16th.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: It's my understanding that unanimous consent will be given to all the motions to be -- to discharge be presented on April 16th, and we look forward to that day.

Mr. President, there being no further business, I move we adjourn until Monday, April 1, 1996, at 3:00 p.m. sharp, intervening days to be legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, April 1, at 3:00 p.m., all days - intervening days to be intervening days.

(Whereupon, at 12:47 p.m., the Senate adjourned.)