NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:05 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

THE PRESIDENT: It is my great honor and privilege to tell you that the invocation today will be given by His Eminence Edward Cardinal Egan of the New York State Archdiocese.

Cardinal.

ARCHBISHOP EGAN: Before I start the invocation, I want to be sure to thank you for the honor of being here in this august Assembly. I truly feel privileged, and I feel that you've been extraordinarily good to this New York citizen of only eight months. I'll try to live up to this honor which you've accorded me.

Could we place ourselves now in the presence of our God.

O mighty and eternal Father, today,

with great confidence, we seek Your loving care for those in our state government who serve us and all of our fellow citizens. May our Governor and our Lieutenant Governor and all of the administration which serves our people with them, they are Senators and the members of our Assembly, and their staffs and our judiciary, all be granted the grace of being women and men of justice and compassion, of honor and righteousness.

May we give them the respect, the understanding, and the support they deserve as servants of the public. May we have the courage and wisdom to place before them our needs and our concerns.

May together, officials and citizens alike, may we protect the defenseless, care for the needy, defend the worker, guide and educate our children, attend to the needs of the sick and the elderly and all in our midst who are hurting.

Bless our leadership, O Lord. Bless our fellow citizens. Make us an example to the nation and to the world of a people who are unashamedly committed to goodness,

nobility, wholesomeness of life. This is Your will for us. We beg with confidence that You make of us the people we should be, here in the Empire State, the great State of New York.

Make us, O Lord, good and holy, in Your holy name, now and forever.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 12, the Senate met pursuant to adjournment. The Journal of Sunday, March 11, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe I have a privileged resolution at the desk.

THE PRESIDENT: You do, Senator.

SENATOR BRUNO: I would ask that it be read in its entirety and move for its immediate adoption.

And customarily, members would rise and speak to the resolution. But out of deference to His Eminence Cardinal Egan's time, and the bishops', I would respectfully request that the members not speak to the resolution.

Because I know, Cardinal, I speak for this entire delegation in that each and every one of the 61 members here would like to add to and say anything and everything that might be appropriate for this ceremonious occasion.

But we are just as happy as we can be that you are here to join us, and thank you very, very much for your prayer.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 684, congratulating Edward Cardinal Egan, Theodore Cardinal McCarrick, and Avery Cardinal Dulles on their recent elevation to the august position of Cardinal.

"WHEREAS, It is the longstanding tradition of this Legislative Body to recognize and commend individuals who provide social, health and spiritual guidance to the citizens of their community and play a vital role in the development of the moral fabric of a responsible citizenry; and

"WHEREAS, On Wednesday, February 21, 2001, Archbishop Edward M. Egan, Archbishop Theodore Cardinal McCarrick, and Jesuit Theologian the Reverend Avery Dulles were elevated to the College of Cardinals by Pope John Paul II; and

"WHEREAS, Edward Cardinal Egan was ordained a priest on December 15, 1957, following studies at the Seminary of our Lady of the Lake in Mundelein and the Pontifical Gregorian University in Rome. He returned to the United States and spent the next two years

in administrative posts in the Archdiocese of Chicago; and

"WHEREAS, Edward Cardinal Egan returned to Rome in 1960 and obtained a Doctorate in Canon Law and served as the Vice Rector of the Pontifical North American College. He was appointed an Auditor of the Tribunal of the Roman Rota on November 20, 1972, and taught at the 'Studio Rotale' and at the Pontifical Gregorian University; and

"WHEREAS, Edward Cardinal Egan was appointed Auxiliary Bishop of New York in April 1985 and was consecrated in Rome on May 22, 1985, by Cardinal Bernardin Gantin, Prefect of the Congregation for Bishops. He was made Bishop of Bridgeport on November 5, 1988, and then Archbishop of New York on May 11, 2000; and

"WHEREAS, Avery Cardinal Dulles was raised a Presbyterian and claimed to be an agnostic when he entered Harvard in 1936. In 1940, he converted to Catholicism; and

"WHEREAS, Avery Cardinal Dulles served in intelligence in the Naval Reserve. He was decorated with the 'Croix de Guerre' in

1945 for his work in communication with the French Navy; and

"WHEREAS, Avery Cardinal Dulles joined the Jesuits in 1946. He was ordained a priest for the Jesuits in 1956 at Fordham University, New York, by Francis Cardinal Spellman; and

"WHEREAS, Avery Cardinal Dulles joined the faculty of Fordham University in 1951 as a professor of philosophy. Since 1988, he has been the Laurence J. McGinley Professor of Religion and Society at Fordham University, and he is currently a consultant to the Committee on Doctrine of the NCCB, an author, and a lecturer; and

"WHEREAS, Theodore Cardinal McCarrick was ordained on May 31, 1958, following studies at St. Joseph's Seminary. He obtained a Master's Degree in History and a Doctorate in Sociology from Catholic University of America; and

"WHEREAS, Theodore Cardinal McCarrick was President of Catholic University of Puerto Rico from 1965 to 1969. He was made Secretary Adjunct for Catholic Education in

the Archdiocese of New York and worked in Most Blessed Sacrament Parish from 1969 until 1971; and

"WHEREAS, Theodore Cardinal McCarrick served as Secretary to New York's Terence Cardinal Cooke before being named Auxiliary Bishop of New York in 1977. He was appointed the first bishop of the new diocese of Metuchen, New Jersey, in 1981; and

"WHEREAS, Theodore Cardinal McCarrick was made Archbishop of Newark in 1986 and was also made Superior of the Sui Juris Mission of Turks and Caicos. He was appointed as Archbishop of Washington, D.C., in November 2000; and

"WHEREAS, New York State is blessed to have connections with three such illustrious Princes of the Church; and

"WHEREAS, It is the sense of this Legislative Body that when individuals of such noble aims and accomplishments are brought to our attention, it is appropriate to commend them for their many benevolent deeds as they enter a new and challenging experience; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate Edward Cardinal Egan, Theodore Cardinal McCarrick, and Avery Cardinal Dulles on their recent elevation to the august position of Cardinal; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Edward Cardinal Egan, Theodore Cardinal McCarrick, Avery Cardinal Dulles, the Archdiocese of New York, and the Bishops of the Dioceses of Albany, Brooklyn, Buffalo, Ogdensburg, Rochester, Rockville Centre, and Syracuse."

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we open the resolution up to all the

members of the Senate for cosponsorship.

THE PRESIDENT: We shall, Senator.

All members who -- if any -- do not wish to have their names added to this resolution, please notify the desk.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President. It's my distinct honor and pleasure, as a former altar boy, to introduce to my colleagues 12 bishops who are with us here today.

And I would ask that each might stand and just wave, and we'll hold the applause till the end.

Bishop Gerald Barbarito, the Bishop of Ogdensburg.

Bishop Thomas Daily, Bishop of Brooklyn.

Bishop Howard Hubbard, the Bishop of Albany.

Bishop Henry Mansell, Bishop of Buffalo.

Bishop James Moynihan, Bishop of Syracuse.

Reverend Monsignor John Alesandro, Diocesan Administrator of the Diocese of Rockville Centre.

Bishop Robert Brucato, Auxiliary Bishop of New York.

Bishop Ignatius Catenello, Auxiliary Bishop of Brooklyn.

Bishop Basil Lostin, Bishop of the Ukrainian Diocese of Stamford.

Bishop James McCarthy, Auxiliary Bishop of New York.

Bishop John McGann, Retired Bishop of Rockville Centre.

Bishop Joseph Sullivan, Auxiliary Bishop of Brooklyn.

(Applause.)

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR CONNOR: Let me briefly welcome Cardinal Egan here. We're delighted he's become a New Yorker. We look forward to many years of his leadership, and we thank the entire Catholic Conference, on behalf of my

Democratic Conference here, for everything that you do and all of your work and the many services you provide to our constituents.

I just point out to Cardinal Egan, who prayed for us and our fellows in state government, that Bishop Hubbard, who's here a lot, looks down on us, he knows what's going on here, and he prays for the people of New York State.

(Laughter.)

SENATOR CONNOR: But the fact is, we are certainly delighted by Cardinal Egan's -- the Holy Father's choice of Cardinal Egan to the College of Cardinals.

I certainly am delighted that Cardinal Dulles, a noted theologian, has also been elevated to the College.

And if I may add a personal note about someone who's not here, Cardinal McCarrick. In 1963, at the age of 18, I left the Diocese of Trenton and went to the National Pontifical University, otherwise known as Catholic University of America, and in the first week met a young priest there, Father Ted McCarrick, who was among a group of

faculty -- he was then in administration there, and was completing his Ph.D. -- who mentored us. And they did it so well we didn't know we were being mentored.

You know, we'd find six guys would be out to dinner with Father McCarrick at a nice restaurant in Washington. And it wasn't until many years later I realized this was part of the program, so to speak. And we'd carefully watch to see which fork or knife he picked up, and we learned a lot of life skills that way.

And I've known Cardinal McCarrick for these last 38 years in a very personal way -- I've been to some of his birthday parties over the years. And so on a personal level, I have to make that note that he's someone who has always been an important person in my life.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Connor.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that we're going to return to

reports of standing committees. And I believe that there is a report at the desk from the Finance Committee.

And while we're calling that, and I'm on my feet, just to have the last word as relates to the Cardinal, I want to say how much I appreciated the words of my colleague Senator Connor in terms of his exposure.

And also to the Bishops and to the Cardinal, in thanking you for all of your good wishes and for your prayers. And ask you to say a special prayer for the Minority in this house, because they need it desperately.

(Laughter.)

SENATOR BRUNO: Thank you. Thank you very much, Madam President.

THE PRESIDENT: Senator Bruno, I might add to your comments that a higher power has called, through the voice of the Cardinal, who would like the floor. And I will certainly defer to that higher power.

ARCHBISHOP EGAN: I was afraid I was breaking Robert's Rules of Order.

But I don't want to leave without thanking you most sincerely for your warmth

and your kindness and for this wonderful honor.

Believe me, I'm very touched. I cannot believe that in eight months I've made my way here, to the Senate of New York, and that you have been so extraordinarily kind to me.

I would like to say that when Bishop Hubbard asks to pray for the people, it's because he wants the Lord to thank them for choosing you. So see it that way, all right?

(Laughter.)

ARCHBISHOP EGAN: And finally, I'd like to note that there were only three named to the College of Cardinals this time by our Holy Father.

And uncarefully one day, I said to the New York Times: "It's a clean sweep for New York." Someone said to me afterwards, "I don't know if that's a good way to put it."

But the more I think about it, I think it's excellent. It was a clean sweep for New York, and New York has done so much good for the Church, and for the churches and

for the synagogues and for all who are committed to the service of our people in the name of the Divinity.

So once again, I thank you most sincerely. I am extraordinarily honored. I'll try to live up to it. And I'll keep praying for all of you.

Thank you so much.

(Applause.)

THE PRESIDENT: Return to reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bill direct to third reading: Senate Print 3456, Budget Bill, an act to amend Chapters 50, 53, and 55 of the Laws of 2000.

THE PRESIDENT: Without objection, the bill will be reported to third reading.

Senator Stafford, nominations?

SENATOR STAFFORD: Please, Madam President.

THE PRESIDENT: The Secretary

will read, Senator Stafford.

SENATOR STAFFORD: Thank you. Thank you.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations:

As Chairman of the Metropolitan Transportation Authority, Peter S. Kalikow, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Madam President, I know that this is a very, very important day for us. But I have to say that we're certainly pleased that you've stayed right up there -- we're certainly pleased that you are still right up there on the rostrum, and we're all doing our duty.

Madam President, we had three fine nominations before us today. And it's a pleasure for me to at this time yield to the Senator from Manhattan for the first nomination -- the chairman of the MTA, Peter S. Kalikow, one of the excellent nominations -- Senator Goodman.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Madam President, distinguished guests and members of this great chamber, it's a privilege, a pleasure, and I deem it a high honor today to be able to present to you for your consideration the name of Peter S. Kalikow as chairman of the Metropolitan Transit Authority.

Peter Kalikow is an individual I've had the pleasure of knowing in New York City for a number of years and a man for whom I've garnered the highest respect. He is not only an individual of keen energy and great dedication to the public interest, he's also an outspoken advocate of transportation in its many forms.

He's had a truly distinguished career. I'd like to take a moment to acquaint you with some of the highlights of that remarkable series of accomplishments.

First of all, he's a graduate of Hofstra College and graduated from there in 1965. And, in the 35, 36 years since, has had one of the more distinguished careers of any New Yorker that I can think of.

Specifically, he's been a member of the New York City Metropolitan Transit Authority and its vice chairman in recent years. He's a commissioner of the New York State Port Authority; that is, the Port Authority of New York and New Jersey. He's a former member and owner and publisher of the New York Post.

He's chairman of the Grand Central Partnership Board of Directors, and has been a member of the Metropolitan Transit Authority, serving with great distinction, and has recently enunciated a series of ideas which are of great significance to all New Yorkers.

Specifically, he has come out in strong favor of the development of a full-length Second Avenue Subway, which will have a major economic impact on the whole of Manhattan and all abutting areas. He has also done a very important job in regard to the connecting trunk line which will bring - which will connect the Long Island Railroad to Grand Central Station, easing the burden of the daily commute for many thousands of commuters who come to New York City every day.

Mr. Kalikow is a man who has been a very distinguished leader of his chosen field of real estate. He's been honored repeatedly by the Real Estate Board of New York.

He's a philanthropist of considerable note, having created the pediatric intensive care unit at New York Hospital with his wife, Mary. He's a trustee of New York's Columbia-New York Presbyterian Hospital and chairman of its pediatric development committee, caring deeply about the welfare of children.

He's on the board of directors of the Jewish National Fund and was honored by being given the Peace Medal, which is the State of Israel's highest civilian award, for his many years in aiding that nation's development.

Madam Chairman, let me say to you that Mr. Peter Kalikow in my judgment represents the highest degree of integrity and ability that we can have in a public servant. He's a man of great drive, and I think anyone who knows him and speaks with him is aware of the fact that his energy will be well applied

in his great new responsibilities.

Having been involved with both the Port Authority and the MTA at some length, he's familiar with the bridges, the tunnels, all of the arteries which cause New York to be economically one of the greatest areas in the world. And I think that his availability in assuming responsibility for these areas of ingress and egress from the city will assure that this will be smoothly run and well taken care of.

One of his significant accomplishments while acting as chairman - Madam President, may I ask you for a little order, if you please.

THE PRESIDENT: Senator, as usual, we were in sync. I had just gaveled as you requested that.

SENATOR GOODMAN: Thank you. It's called mental-to-gavel telepathy, Madam President.

May I say to you that in one of his unique and notable accomplishments he has taken the remarkable ability of motorists to drive quickly through the toll booths with the

special credential which is now available for that purpose, and extending that privilege to motorists not only from New York City but surrounding regions as well. A very important development, and a very great conservative time for motoring commuters.

I could go on and on and try to heap high the accomplishments of this man, but let me simply say that we're very lucky that an individual of his stature and caliber is willing to devote as much of his time as he has to public service.

And by placing him in the chairmanship of the MTA, we will assure that that sensitive post is in good hands. In fact, I can think of none better to serve in this very distinguished post.

Madam President, I present to you his name and hope that this house will quickly approve him as he richly deserves to be approved. Thank you very much indeed.

THE PRESIDENT: Thank you, Senator.

Senator Stachowski, I believe, is next.

SENATOR STACHOWSKI: Yes, Madam President.

I rise to second the nomination of Mr. Kalikow. I was thoroughly impressed by his knowledge of the MTA and its many functions. A group of my colleagues at the Finance meeting asked him a myriad of questions on a lot of different issues that concerned them from their parts of the City of New York, and he was not only aware of each one but he had a good grasp of the subject.

And it was a breath of fresh air to hear a nominee that was so up on the issues, had ideas of how to deal with some of them, and had the energy to say that he was going to go and try to make a lot of these things happen.

I think that he has a good knowledge of what public service is. He has the right attitude to handle the MTA and get it to serve the people of New York better, to alleviate some of their travel problems.

And I think that it's my great pleasure to rise and second the nomination of Mr. Kalikow.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, I also rise to second the nomination of Mr. Kalikow.

I want to commend the Governor for this appointment. Mr. Kalikow, as you've heard from Senator Stachowski and Senator Goodman, is an outstanding real estate developer, philanthropist, and has served with distinction for several years as a member of the MTA and the Port Authority.

I believe he is the first chairman of the MTA in history who also is a member of the Port Authority of New York and New Jersey. Now, this creates certain problems, because I believe the capital plan for the MTA is over $17 billion and for the Port Authority is over $14 billion. And any way we can be helpful to him, we will.

And I know with his contacts in the federal government and the city government there will be ways of reaching, if not all of this total, most of this total for the benefit of the entire metropolitan New York region.

Lastly, but not least - Mr. Kalikow is probably not aware of the

fact -- there is life before the New York State Senate, as I'm told there is life after the New York State Senate. Almost twenty years ago, Mr. Kalikow and his father received the award of Men of the Year from UJA Federation of New York. I was on the committee as a trustee, and a member of the executive committee of UJA Federation that approved the award and also presented the award with my colleagues.

And I am delighted that this man, who has ability and commitment and courage and, we hope, support, will be able to build upon what Virgil Conway has done over these last few years and make the MTA the outstanding institution it is and even further advance it for the future for the citizens of the City and State of New York.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President.

I rise to support this nomination.

The Governor would have been hard pressed to come up a nominee with a more impressive resume in both the public sector and the private sector.

And as Senator Stachowski illustrated before, it was refreshing to have someone come before the Senate Finance Committee with a very complete understanding of the very important issues that will be faced by that nominee once they assume the position for which they have been nominated.

On a personal level, I was gratified that, as I was asking the nominee certain very parochial questions, he was very in tune and very responsive to the needs in my communities. And it's not just because the nominee grew up in Forest Hills, it's because he is dedicated and compassionate and has a very full understanding of the one problem that I raised with him this morning, and that I've raised on this floor before -- the last time being about a week ago -- and that's the number of pedestrian deaths on Queens Boulevard.

And just to reiterate some of the

numbers, 73 people dead since 1993, an average of one pedestrian fatality every six weeks on Queens Boulevard. Eighty-nine percent of the deaths pedestrian error, 60 percent of the deaths senior citizens. And I should note that this particular area has the highest concentration of senior citizens in the entire state of New York.

We're doing a number of things to improve the conditions. But MTA and the Transit Authority can have a dramatic impact here by examining the technical feasibility and the monetary feasibility of installing escalators on seven subway underpasses that cut underneath this dangerous intersection to avoid unnecessary crossings which just compromise people's health and lives in some cases.

And I was very much gratified that not only Mark Shaw, the Executive Director of the MTA, was receptive when I first broached this idea with him several weeks ago, but at this morning's hearing that Mr. Kalikow was also receptive.

As he indicated during that

committee meeting, when he was growing up in the area, to avoid the dangerous crossings on Queens Boulevard, he too would cut underneath, using the subways. So he recognizes that senior citizens often cannot do that and that we really have to explore ways to avoid people from being unnecessarily killed or injured on that roadway.

So I'm thrilled that he is enthusiastic about examining that issue and that he is very knowledgeable on all of the other issues of concern to us, including the extension of the Second Avenue Subway and a series of transportation initiatives that are absolutely essential to the economic vitality of the New York metropolitan region.

So having said that, I fully support this nominee and commend the Governor on an excellent, excellent choice.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Madam President, I rise to also second the motion, the resolution, and wish to commend Governor Pataki on this fine appointment.

Mr. Kalikow's accomplishments speak

for themselves. They are legend. The comments of the Senate Minority indicate that he can reach across to all political parties, to people in all walks of life. His experience and breadth of knowledge and experience is so wide that it's almost as if he came from central casting for this position.

Mr. Kalikow is of course a gentleman, a gentle man with a steel core, a man who has, by his many, many charitable endeavors over the years, contributed so much to our great state and to the nation.

I'm very pleased to second the nomination of a good friend, someone who will behave in the office of chairman of the MTA in a way that will bring credit not only to himself and his family but to the people of New York and to the Governor that appointed him.

I'm very proud to second the nomination.

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: Thank you, Madam President.

I'd like to join others in seconding this nomination. Peter Kalikow has a home in my senate district, and we have exchanged pleasantries over a number of years.

I just can't say enough about his talents. Both in the area of public service to this state, and as a businessperson, he has shown that he has extraordinary skills. And I think that he will continue to demonstrate the use of his talents in his chairmanship in a very important area.

So it gives me great pleasure, Madam President, to second this nomination.

THE PRESIDENT: Senator Connor, to close.

SENATOR CONNOR: Thank you, Madam President.

I'm delighted to second the confirmation of Peter Kalikow. He's been a friend for years but, more importantly, he's been a friend to all of New York City in his charitable work. He's been a successful - obviously, successful businessman.

And the thing we all do appreciate is his willingness to serve, his willingness

to serve on the MTA board and now to serve as the chair. And I know he will do a superb job.

I was frankly delighted, but not the least bit surprised, when the members of my conference who serve on the Finance Committee reported to me that -- including some who are not from New York City and not as familiar with Peter's fine work in the past - who reported to me: Wow, what a nominee. We asked a lot of questions because we have a lot of concerns, obviously, about transportation in the metropolitan area. We asked a lot of questions, and he knew all the answers, he articulated them well.

He obviously is committed to doing a superb job. I know he will. I'm delighted to second this nominee.

THE PRESIDENT: To close for the Majority, Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

I too am delighted to join with my colleagues in thanking and congratulating the Governor on your appointment.

I've had the pleasure of knowing Peter for many years, having worked with him on many MTA issues as the Senate representative to the MTA Capital Review Board, where there are still many challenges ahead of us in making sure that whether it's the New York City subway system, the Long Island railroad, Metro North, or our bus services, that they are the best and what are our constituents deserve.

Peter, by your appointment, Governor Pataki -- and of Virgil Conway before you -- I think by both of those appointments, the Governor has indicated his concern and his desire and his understanding that we have to have a state-of-the-art mass transit system for all of our hundreds of thousands of constituents that use the system on a daily basis. It has to be safe, it has to be clean, it has to be courteous, and it has to be on time. And I know you will meet those challenges in the years to come.

So congratulations to you, my friend.

THE PRESIDENT: The question is

on the confirmation of Peter S. Kalikow, of New York City, to serve as chairman of the Metropolitan Transportation Authority.

All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And as President of the Senate, on behalf of the Senate, I'd like to acknowledge the presence of the chairman of the Metropolitan Transition Authority, Peter S. Kalikow, who is here with his son, Nicholas.

I've had the privilege and educational opportunity of working with Chairman Kalikow on other initiatives. And without reservation, I know the Governor has made an excellent choice to succeed another excellent chairman, Virgil Conway.

Congratulations, Peter, and best wishes.

(Applause.)

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Edward B. Dunn, of Rye.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Madam President, another excellent appointment.

And to move Ted Dunn's nomination, I yield to the Senator from Westchester.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you very much, Senator, and Madam President.

It's my pleasure to stand in support of the nomination of Ted Dunn to the MTA. Ted Dunn is someone who was educated at Harvard, served as a successful businessman, served as the mayor of the City of Rye in Westchester County, has been involved in a number of local activities, most worthy as the -- serving as the trustee of one of our colleges in Westchester County, and has continued to serve as a member of the MTA in a way that makes us all proud. Serving as the Westchester representative, serving with then Virgil Conway, who did such an outstanding job

as the chairman of the MTA.

And also I want to congratulate Peter Kalikow on his appointment as the new chairman of the MTA.

So it is my pleasure today, Madam President, to second the nomination of Ted Dunn as a member of the MTA and hope that he continues the great work that you continue to provide to not only to the people of Westchester but to the people of Long Island and the people of the City of New York as well.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President.

I rise to second the nomination of Ted Dunn. Ted has done just very wonderful work in Westchester and in the financial field. And he has been on the MTA board. He is very knowledgeable of the whole process and all the work that is being done there.

And I think this is -- it's totally appropriate that we should want to have him continue in his service. He has been willing

to take on this for another term. And I think we are the beneficiaries, because his financial background, his knowledge of the transit systems -- actually, he lives close by to where I live, and we both live like three minutes away from our local Metro North station, which is of course -- Metro North being a part of the MTA.

And I think that his commitment to Westchester, his commitment to transportation, and his financial skills make this really an extraordinary nominee, and I'm delighted he has decided to serve again.

I second his nomination.

THE PRESIDENT: The question is on the reappointment of Edward B. Dunn, of Rye, as a member of the Metropolitan Transportation Authority, for a term to expire on June 3rd in the year 2006.

All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations to Ted Dunn.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Vernon C. Manley, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Madam President, for our third fine appearance today, we have Vernon Manley, nominated for reappointment to the Parole Board.

And it's a pleasure for me to yield to Senator Nozzolio.

SENATOR NOZZOLIO: Thank you.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. Thank you, Senator Stafford.

As chairman of the Crime Victims, Crime and Corrections Committee, with jurisdiction over the members of the Parole Board and the operations of the Parole Board, it is with great pleasure that I rise for the renomination, reappointment of Vernon C. Manley to serve as a member of the Parole

Board.

Mr. Manley has served with distinction in a variety of governmental and community-based operations in the City of New York, and has served for the last half year with extreme distinction as a member of the Parole Board.

That we are benefited by someone with as diverse qualifications as Mr. Manley, involved in the workings of neighborhood organizations within the city of New York, who has worked within the municipal government of the City of New York, has been a very aggressive and ambitious member of the Parole Board during his brief tenure.

And Governor Pataki is certainly right to renominate Mr. Manley for service in this capacity. The committee recommends and urges his renomination.

Thank you, Madam President.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Madam President.

I rise to second the nomination. I

think that -- I'm very happy. I don't know personally Mr. Manley, but -- and I apologize that during the time that we had our Finance Committee meeting, we were involved with a hearing on the criminal justice system.

And one of the issues raised in the context of the hearing and the press conference and the hearings that we've held, the issue of the Parole Board has loomed as one of the major questions and areas that we need to work more on.

And so I'm very happy that we have a person from New York City who probably has a much better understanding of all of the unique aspects of that environment and ways in which those things come to play as it relates to people who may be in our corrections system and who may be looking to be paroled. It's very good to have a person who not only has the experience and the expertise but who also has the sensitivity.

So I want to commend the Governor on this appointment. And I look forward to having some dialogue, hopefully, with Mr. Manley as it relates to some of his ideas

and some of the things that he thinks that we might do as a legislative body to help support what the role of the Parole Board is. Because we understand its significance as it relates to addressing the whole issue of our corrections and criminal justice system.

So I look forward to working with you. And hopefully this is one of the better appointments that the Governor has made in the time that I'm here.

Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I would certainly want Senator Montgomery to know that her assumption, having not the pleasure of getting to know Mr. Manley, is very well taken.

I actually have known Vernon Manley for over ten years. And at one point, Madam President, he worked with a former colleague of ours who I saw in the chamber yesterday, the former Senator Catherine Abate.

What has always struck me about Mr. Manley, in addition to his own personal integrity, was his understanding of many of

the issues that involve New York City, particularly placement of services. As much as we do need these types of facilities, they often conflict with the needs of a neighborhood and community.

Our office always got a sympathetic ear when we spoke to Mr. Manley when he worked with the previous mayoral administration.

And in addition, just his understanding of the fact that people have at times committed harm against society and it's our public policy to punish them, but if they have taken that punishment and in some way been rehabilitated that we try to hope that we can clean the slate with them if they work through the parole process.

So I couldn't think of a better person that the Governor could have chosen - the fact that he hails from my district only being a minor consideration.

I would say that I hope that -- I wish him well and wish the Parole Board well, with his voice among them.

THE PRESIDENT: The question is on the confirmation of Vernon C. Manley, of

New York City, for reappointment as a member of the State Board of Parole, for a term to expire on June 18th in the year 2006.

All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Mr. Manley, on your confirmation.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Continuing Care Retirement Community Council, Edward Charles Weeks, of Buffalo.

As members of the Medical Advisory Committee, John Angerosa, Jr., M.D., of Scotia; Norman Loomis, M.D., of Ontario; Dennis P. Norfleet, of Oswego; Michael P.M. Pond, M.D., of Saranac Lake; and Roger W. Triftshauser, D.D.S., of Batavia.

As a member of the Council on Human Blood and Transfusion Services, William Allen

Fricke, M.D., of Rochester.

As a member of the Public Health Council, Stephen A. Jennings, of Watertown.

As a member of the State Camp Advisory Council, Sheila Cohen, of Freeport.

As a member of the State Hospital Review and Planning Council, James J. Daly, of Lawrence.

As a member of the Board of Visitors of the Helen Hayes Hospital, Jeffrey Sweet, of Peekskill.

And as a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Oxford, William E. Randall, II, of Marathon.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move the nominations, please.

THE PRESIDENT: The question is on the confirmation of Edward Charles Weeks, of Buffalo, for reappointment as a member of Continuing Care Retirement Community Council, for a term to expire on June 24th in the year 2002; and on the reappointments of the members of the Medical Advisory Committee, for terms

to expire on May 31, 2001, with the exception of John Angerosa, Jr., who is being confirmed for a term to expire on May 31st in the year 2002, and Norman Loomis, M.D., for a term to expire May 31, 2002; and also for the confirmation of the members of the Council on Human Blood and Transfusion Services, specifically William Allen Fricke, M.D., for a term to expire December 31st in the year 2002; and for the confirmation of the following: Member of the Public Health Council, member of the State Camp Advisory Council, member of the State Hospital Review and Planning Council -

Could we please have order in the chamber so the nominations can be heard.

-- member of the Board of Visitors of the Helen Hayes Hospital, and a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Oxford.

All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are

hereby confirmed.

Senator Balboni.

SENATOR BALBONI: Yes, Madam President. There will be an immediate Majority Conference in the Majority Conference Room.

And please recognize Senator Paterson for an announcement.

THE PRESIDENT: There will be an immediate meeting of the Majority in the Majority Conference Room.

Senator Paterson.

SENATOR PATERSON: Madam President, there will be an immediate meeting of the Minority in the Minority Conference Room, which is Room 3.14, which is also the mathematical division of pi.

THE PRESIDENT: There will be a meeting of the Minority Conference in Room 314.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:58 p.m.)

(Whereupon, the Senate reconvened at 4:30 p.m.)

THE PRESIDENT: The Senate will please come to order.

Senator Bruno.

SENATOR BRUNO: Madam President, can we ask for an immediate meeting in the Majority Conference Room of the Commerce, Economic Development and Small Business Committee, chaired by Senator Alesi.

THE PRESIDENT: There will be an immediate meeting in the Majority Conference Room of the Commerce, Economic Development and Small Business Committee, chaired by Senator Alesi.

Senator Bruno.

SENATOR BRUNO: Madam President, can we return at this time to motions and resolutions, and adopt the Resolution Calendar.

THE PRESIDENT: Motions and resolutions.

All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I have a privileged resolution at the desk. I would ask that the title be read and move for its immediate adoption.

SENATOR OPPENHEIMER: The Secretary will read Privileged Resolution 785.

THE SECRETARY: By Senator Bruno, Concurrent Resolution of the Senate and Assembly Number 785, authorizing the Senate and Assembly of New York State to purchase copies the New York Red Book for 2001-2002.

THE PRESIDENT: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The resolution is adopted.

Senator Fuschillo, for a motion.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Maziarz, on page Number 16 I offer the following amendments to Calendar Number 174, Senate

Print Number 1898, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendment is received, and the bill will retain its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 68, by Senator Marcellino, Senate Print 487, an act to amend the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 86, by Senator Skelos, Senate Print 389, an act to amend the Insurance Law, in relation to policy coverage.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 89, by Senator Seward, Senate Print 1575, an act to amend the Insurance Law, in relation to expanding.

SENATOR PATERSON: Last section.

(Laughter.)

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 92, by Senator Balboni, Senate Print 860, an act to amend the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 143, by Senator Velella, Senate Print 64, an act to amend the Social Services Law, in relation to persons and officials.

THE PRESIDENT: Read the last section.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 146, by Senator Saland, Senate Print 587, an act to amend the Family Court Act, in relation to extensions.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 147, by Senator Saland, Senate Print 588, an act to amend the Family Court Act, in relation to procedures.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 158, by Senator Wright, Senate Print 1087, an act to direct the Department of Public Service.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 162, by Senator Meier, Senate Print 1449, an act to amend the Social Services Law and

others, in relation to penalties.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 163, by Senator Morahan, Senate Print 833, an act to amend the Education Law, in relation to certain BOCES programs.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 166, by Senator Kuhl, Senate Print 2651, an act to amend the Education Law, in relation to the terms of members of the Board of Regents.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 143.

THE PRESIDENT: The Secretary will read Calendar Number 143.

THE SECRETARY: Calendar Number 143, by Senator Velella, Senate Print 64, an act to amend the Social Services Law, in relation to persons and officials.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, we discussed this bill yesterday, with the kind responses from Senator Velella. And when we left off, Senator Onorato was just asking for the floor.

I just wanted to bring that up, if that's of any help.

THE PRESIDENT: Well, Senator Onorato, do you wish to have to have the floor? If you stand, I will consider that.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on -

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, will Senator Velella answer a question.

THE PRESIDENT: Senator Velella, do you yield?

SENATOR VELELLA: Certainly.

SENATOR ONORATO: It's a brief question.

THE PRESIDENT: You may proceed, Senator Onorato.

SENATOR ONORATO: Senator Velella, this has to do with the EMTs. Prior to this legislation, did you have any conference at all or understanding with the EMTs?

SENATOR VELELLA: With who?

SENATOR ONORATO: With the emergency -

SENATOR VELELLA: Okay.

SENATOR ONORATO: Did they agree that they were willing to go along with this here? Did it in any way violate their contractual union agreement with the City of New York?

SENATOR VELELLA: I'm not aware of any. And as far as I know, the EMT people that spoke with me were in support of this.

SENATOR ONORATO: They were supportive of it.

SENATOR VELELLA: Yes.

SENATOR ONORATO: And the other

question that I had in mind was, would there be additional training required on the part of the EMT now to start recognizing some of these things that they will be asked to report on?

SENATOR VELELLA: Yes, Senator.

As I indicated yesterday, all those groups that will be covered by the law - there are other groups that are covered that are required to make these reports. There are standards set out in the law for them to make those reports and standards for which they should -- things that they should be looking for.

So that in and of itself sets the criteria.

SENATOR ONORATO: Thank you.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the calendar month next succeeding the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is

passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we now call up Calendar Number 86.

THE PRESIDENT: The Secretary will read Calendar 86.

THE SECRETARY: Calendar Number 86, by Senator Skelos, Senate Print 389, an act to amend the Insurance Law, in relation to policy coverage.

SENATOR PATERSON: Explanation.

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

SENATOR SKELOS: Thank you, Madam President.

This bill would prevent the refusal to issue or renew any policy of life or non-cancelable disability insurance based solely on the basis of genetic testing or because an individual has had any type of cancer, the latter providing that the initial diagnosis of such disease occurred at least three years prior to the date of application and a physician has certified that the disease has not reoccurred.

In 1993, we passed this type of legislation concerning breast cancer in the Senate. And I believe at that time Senator Oppenheimer raised the point why not all cancer. We have done that.

It has passed the Senate unanimously in '97, '98, '99, and the year 2000. And unfortunately, the Assembly has not passed this legislation.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Skelos would yield for a couple of questions.

THE PRESIDENT: Senator Skelos, do you yield?

SENATOR SKELOS: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator Skelos, the definition that you use in the legislation, is that accepted by the American Medical Association? Is this a sound definition? Because my fear is -- which will probably be the precursor to my next question -- is that it in a sense could act as

a loophole in the legislation that you're trying to pass.

SENATOR SKELOS: No, I think it's a sufficient definition.

And I want to point out that it is supported by the American College of Obstetrics and Gynecologists. So I think if there was a defect in the legislation, that certainly they would have so indicated.

SENATOR PATERSON: Madam President, if Senator Skelos would continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, in your explanation I missed your comments about some of the other forms of cancer. Would you mind restating them for me?

SENATOR SKELOS: I didn't mention -- if I could, Madam President, I didn't mention any types of cancer. I

mentioned cancer.

Prior to -- we've passed legislation, I believe it was in 1993 -- '97, rather, just relating to breast cancer. I believe at that time Senator Oppenheimer indicated why not all cancer. And this is what this legislation is today that passed, at least on three or four occasions, unanimously in the State Senate.

SENATOR PATERSON: Madam President, I thank Senator Skelos for the clarification. And if he would yield for another question.

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed with a question, Senator.

SENATOR PATERSON: Senator, do you think that in some respects that this legislation is almost defeated by the use of the term "genetic predisposition," which is kind of a new terminology and a new study in our society, and one that may or may not be

proven to be valuable when you think of actuarial tables, and that with genetic predisposition being in a sense almost written into the law that in the future it might actually be used to stop people from getting treatment when you don't really know for a fact that they're really going to -- well, it may stop people from getting insurance when you really don't know for a fact that they're going to need treatment?

SENATOR SKELOS: No.

SENATOR PATERSON: Oh, that's the answer? No?

THE PRESIDENT: That's correct, Senator.

SENATOR PATERSON: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Read the last section.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield?

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam

President.

THE PRESIDENT: You may proceed, Senator Duane, with a question.

SENATOR DUANE: Thank you.

On page 1, lines 5 and 6 read "unless action is based upon sound actuarial principles." Would the sponsor tell us what that could mean in practice?

SENATOR SKELOS: I'm sorry, I didn't hear.

SENATOR DUANE: To repeat, on page 1 of the bill, lines 5 and 6, the bill reads "unless action is based upon sound actuarial principles." And I'm wondering if the sponsor could tell us what that would mean in practice.

SENATOR SKELOS: This is in current law. It's almost boilerplate legislation. It's in Section 2606 of the Unfair Practices Act, Section 2608 also.

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

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: Is it possible, however, that this could mean that an insurance company, based upon actuarial principles, would end up not having to provide the coverage?

SENATOR SKELOS: If I could, Madam President, the possibility could occur. But that would always -- that could always be reviewable by the Superintendent of Insurance.

And remember, if it's based solely on a person's predisposition.

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

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: If I could just correct that. If it's based solely on the basis of genetic testing.

SENATOR DUANE: Genetic testing.

SENATOR SKELOS: Yes.

SENATOR DUANE: Thank you.

THE PRESIDENT: Do you yield, Senator?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you, Madam President. I do want to ask, however, that since the term "genetic predisposition" is used in the bill, is that a term -- and the definition that's attached to it -- recognized by, for instance, the American Medical Association?

SENATOR SKELOS: The definition already is current law, if you look on page 2 of the bill, line 4.

SENATOR DUANE: Thank you. But through you, Madam President, because I'm actually not familiar with that -- and I apologize. But was that derived from the American Medical Association or some other healthcare trade association?

SENATOR SKELOS: Again, if I could answer that as I answered -- if I could,

Madam President -- Senator Paterson, there's support from the American College of Obstetricians and Gynecologists. They have carefully studied this bill. It's been before this house three or four times. And I'm sure if there was a problem with it, they would have notified us.

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

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: I'm wondering in the genesis of the bill how it was that a three-year limit was used. What accounts for using that time?

SENATOR SKELOS: That was taken from the -- I'm sorry, I just couldn't hear you, Senator Duane.

That was taken from the 1993 legislation that I passed concerning breast

cancer and that was signed into law.

SENATOR DUANE: Through you, Madam President, if I could just have a clarification about that.

The 1993 legislation used three years as what kind of a determining factor?

SENATOR SKELOS: In 1993, the state legislation was enacted to prohibit - and this is legislation that was signed into law -- life and disability insurers from refusing to issue or for cancelling a policy because an individual had -- has had breast cancer.

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

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: I'm trying to get at the three-year limit and why that's being used, and maybe I missed why that is. But I'm

just still not getting that, if the sponsor would just clarify why the three-year rule was used.

SENATOR SKELOS: It's the same amount of time used in the legislation passed in '93. It was supported by both houses, signed by the Governor, so we felt it was appropriate to have in this legislation, that we could make it law.

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

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: The insurance carriers who would be impacted by this legislation, have they indicated to us what the anticipated financial impact of the legislation might be?

SENATOR SKELOS: There's no memo in opposition that I know of.

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

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR DUANE: I'm assuming that -- the past responses to indicate that the insurance companies either don't know or don't care about what the cost is to them. Is that what's being implied by their not having a memo in opposition?

SENATOR SKELOS: Nobody has come to us and opposed this bill. I have not seen a memo in opposition to this bill. And we've passed it on four occasions, unanimously. I believe you supported it for the years that you have been in the Senate.

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

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I do want to preface this question by saying that I do think this is a good bill.

And I'm wondering whether or not the sponsor feels that there should be a similar policy for, for instance, the issue of mental health and, as we discussed, providing parity for mental health.

SENATOR SKELOS: Senator Duane, I'll comment on this legislation which is before the Senate. I know that there are numerous other pieces of legislation that would affect other concerns. And certainly if and when they come before the Senate for consideration, I will express my opinion at that time as I vote.

SENATOR DUANE: Thank you, Madam President. On the bill.

Thank you. I do want to repeat that I do think that this is a good bill. And I'm heartened that the insurance companies

have not come out in opposition to this legislation, and I think that bodes well for other kinds of legislation that would follow this model.

And so I am very much looking forward to including these kinds of bills when we look at other ailments and diseases, including mental illness.

Thank you, Madam President.

THE PRESIDENT: Senator Hassell-Thompson was next, and then Senator Smith.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. If the sponsor would yield to a question.

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: Senator, do you yield?

You may proceed.

SENATOR HASSELL-THOMPSON: Thank you, Senator.

I heard your answer on the actuary.

My problem, though, is the actuary is that person that -- you know, the

numbers-cruncher that makes a determination about what the insurance is going to cost.

And do you not think by adding that as language you create a loophole for the insurance company to send an actuary to say to us that the case in question would -- because of the cost of cancer, that that would be a good enough reason to deny, based upon the financial impact to the insurance company?

SENATOR SKELOS: If I could comment on that.

If you took away actuarial principles, that means they would have to insure everybody on everything.

And I think there would be perhaps a problem in terms of cost.

You could have a situation where if I found out today that I had cancer and I went in and sought insurance tomorrow, I think that would cause a problem in terms of all who are seeking insurance in the state.

SENATOR HASSELL-THOMPSON: Madam President, through you, another question.

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Then, Senator, then I was under the misimpression that we really were trying to help everyone who might fall into this category. Because if you -

SENATOR SKELOS: If I could ask you a question. If I know -

SENATOR HASSELL-THOMPSON: Let me just finish what I'm saying.

SENATOR SKELOS: Okay.

SENATOR HASSELL-THOMPSON: I know we have to have some guidelines. I know there has to be some parameters that we use.

I'm just not clear that if we are instructing the insurance companies not to deny persons based upon all the other parameters that you have developed here, why actuary as the determination? Why not another principle?

SENATOR SKELOS: First of all - well, again, we're just talking about based solely on the basis of genetic testing. That

we're saying that they cannot deny this insurance based solely on genetic testing.

SENATOR HASSELL-THOMPSON: Just a final question, if the Senator will yield.

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: I don't think that my concern is that we don't have some sound principle by which we make determinations. My question is why the actuary, and -- because that, to me, is an insurance loophole. That's my assessment.

SENATOR SKELOS: It's in no way determinant. And it's replete through all of our laws.

SENATOR HASSELL-THOMPSON: I said final question, so I will honor that. Thank you, Madam President.

THE PRESIDENT: Senator Smith.

SENATOR ADA SMITH: Thank you, Madam President. Would the sponsor yield for

one question?

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Smith.

SENATOR ADA SMITH: Thank you.

After listening to Senator Hassell-Thompson, some questions came to mind. And one of them was, are any particular ethnic groups more predisposed to -- genetically predisposed to cancer?

SENATOR SKELOS: We're dealing with cancer.

SENATOR ADA SMITH: Yes, I said cancer.

SENATOR SKELOS: I -- I have no idea.

SENATOR ADA SMITH: Okay. If not, are there any particular groups actually at all that would be genetically predisposed, any categories?

SENATOR SKELOS: Again, I have no idea. All I'm saying is that they shouldn't

be denied this insurance based solely on genetic testing.

SENATOR ADA SMITH: Thank you. Would the sponsor just yield for one more last question.

THE PRESIDENT: Senator, do you yield for a final question?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Smith.

SENATOR ADA SMITH: Thank you.

For those people who have successfully battled cancer, statistically how often do they suffer from a reoccurrence of the disease? Would you know that?

SENATOR SKELOS: I have no idea. I guess it depends on every individual.

SENATOR ADA SMITH: Thank you, Madam President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Will the Senator yield for one question.

THE PRESIDENT: Senator, do you -

SENATOR SKELOS: Yes.

SENATOR ONORATO: If the actuary for whatever reason denies the person who's seeking the insurance, is there a right of appeal of their decision?

SENATOR SKELOS: I mentioned that earlier, that it's with the Superintendent of Insurance.

SENATOR ONORATO: Thank you.

THE PRESIDENT: Senator Espada.

SENATOR ESPADA: Madam President, will the sponsor yield to one question, please.

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR ESPADA: Thank you, Senator.

We've acknowledged that advances in genetics and microbiology have allowed us to detect the predisposition not only of cancers but of other illnesses, other diseases -

sickle cell anemia, diabetes, heart disease. Would you in a future bill consider the inclusion of these other -

SENATOR SKELOS: I believe Senator Duane asked a similar question, perhaps not in the same words.

Right now I'm dealing with cancer. There are members who have sponsored legislation concerning all other types of diseases. And certainly if they are presented to the floor, I would probably be supportive of all of them.

SENATOR ESPADA: We thank the Senator. Thank you.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. Just -- would the sponsor yield to just one question, Madam President.

THE PRESIDENT: Senator, do you yield for a question?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President. The overall effect of this would be to require insurance companies to not use genetic testing or genetic predispositions as the sole basis for denying policy coverage.

My question is, would you anticipate that the average cost of insurance of this type, both life and non-cancelable disability insurance, would increase in this state as a result of their attempting to cover their risk under this policy?

Would you anticipate overall policies would increase?

SENATOR SKELOS: No.

SENATOR DOLLINGER: Okay. Through you, Madam President, just briefly on the bill.

I certainly share Senator Skelos's interest and I think proper interest and goal of eliminating the use of genetic testing as the sole determinant of denying coverage for either life policies or noncancelable disabilities.

But I do believe that the consequence of this bill will be to increase

the cost of life insurance and noncancelable disability, because the consequence of this will be there will be fewer instances in which they can use the tools of modern science to detect predispositions and then rule certain people out of the policy pool. Such as we've done with the smoking of cigarettes in life insurance policies and in the calculation of the cost of life insurance policies.

So I think this is a good bill, but I think it -- at least from my experience in looking at the insurance business and how insurance pools work, I would suggest that it will increase the cost of both of these coverages generally across the state, even though that increased cost will be justified because we're going to be creating a policy which protects people from the arbitrary use of genetic testing.

I think it's a good idea, but I do think it will have a result of an increase in cost, and we ought to do it with that understanding.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 100.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Breslin, to explain your vote.

SENATOR BRESLIN: To explain my vote. Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR BRESLIN: I stand to commend Senator Skelos for this bill. He's introduced it before. There's no reason it shouldn't pass both houses.

It's taking the positive side of genetic research, which can be so important in today's scientific community, but taking away the negative side, the negative side being the improper or bad use of it by insurance companies to deny coverage.

I commend him. I hope it passes on to additional areas and that we have some ways to enforce it, police it, to make sure that we can guarantee that insurance companies can't use that information in any way that would cause individuals to lose their insurance

coverage.

And for that reason I vote in the affirmative. Thank you, Madam President.

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

Senator Hassell-Thompson, did you wish to be heard? And then Senator Oppenheimer.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. Just to explain my vote.

I certainly too commend Senator Skelos on his thoughtfulness in this area and will have every intention of voting on the bill.

I would just hope that he would have considered deleting the language of "sound actuarial principles" in its connection not to people who already have cancer or who know they have cancer but, rather, to those with a predisposition.

So that's my only concern about this bill. And I do vote yes.

THE PRESIDENT: Senator, you will

be recorded as voting in the affirmative.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President. I also will be voting in the affirmative.

I thought I'd give an answer, the partial answer, the little piece of it that I do know myself personally, to the question that Miss -- Senator A. Smith raised.

Yes, there are predispositions to certain types of cancer.

For example, Ashkenazy Jewish women have a strong predisposition to breast cancer. And unfortunately, I fit into the pattern and did -- am a survivor.

But there are many other types of cancer that are predisposed to particular groups, so it does exist.

But this is a good bill. I'm happy to support it. I'm glad I planted the seed in Senator Skelos's mind.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: To explain my vote. Because I also intend voting for it.

Just thinking about it, I had a

question in mind that I didn't ask you. And I hope that if this isn't the bill that passes both houses, that we'll have another opportunity to come back to it.

I'd like to know how the insurance companies are going to get their hands on the information about anyone's predisposition to have this particular information available to them. And is it going to be mandated by the insurance companies that before they give you the insurance that they will require you to take some kind of a test on it.

So keeping that in mind for a future bill, I intend to vote yes on this bill.

THE PRESIDENT: Senator Duane, to explain your vote.

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

I do feel that this is a good bill. But I share the concerns that I raised before about the phrase "unless action is based upon sound actuarial principles." I haven't actually been -- my fears have not been particularly calmed. And of course my

colleague Senator Hassell-Thompson really also zoomed in on that.

I think I would feel better if the insurance companies had opposed this legislation. It would make me feel that there was more of a likelihood that the intent of this bill would actually be met in practice.

I am going to vote for it. I am going to hope that it achieves the result that the sponsor had intended for it to have. If that isn't the case, then I think we would have to go and revisit it and try to tighten up the language to make sure that people - women are covered in the way that we intended.

And I will be voting yes, Madam President.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator Duane.

The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if you would call up Calendar Number 166, by Senator Kuhl.

THE PRESIDENT: The Secretary will read Calendar 166.

THE SECRETARY: Calendar Number 166, by Senator Kuhl, Senate Print 2651, an act to amend the Education Law, in relation to the terms of members of the Board of Regents.

SENATOR OPPENHEIMER: May we have an explanation, please.

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

SENATOR KUHL: Yes, Madam President. I didn't hear who requested the explanation.

SENATOR OPPENHEIMER: I did.

THE PRESIDENT: Senator Oppenheimer, Senator Kuhl.

SENATOR KUHL: Yes, Madam President.

This bill is singular in purpose. It would simply stagger the terms of the Board of Regents.

There are currently 16 members of

the Board of Regents. And last year there were six appointments. This year there are four appointments.

So as you can see -- and they serve five-year terms -- that there seems to be an unbalanced selection which can lead to a great turnover as far as experience goes.

So the attempt is to try to stagger the terms so that there's continuity of the existence of institutional knowledge that the Board of Regents might acquire should that happen.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I think I'm supportive of this; I just have to ask some questions. Through you, if the sponsor would yield.

THE PRESIDENT: Senator, do you yield?

SENATOR KUHL: Yes, I'd be happy to.

THE PRESIDENT: You may proceed, Senator Oppenheimer.

SENATOR OPPENHEIMER: How would

this work, Senator Kuhl? In each of the next five years there would be two or three people or three seats chosen to run in that year?

SENATOR KUHL: The easiest way perhaps to explain this, Senator Oppenheimer, is that -- use last year, the year 2000, as an example.

There are 16 Regents on the Board of Regents, as you know. There are 12 various judicial districts across the state. Four are elected from at-large status.

In the year 2000, there were six seats that became vacant. This year there are four seats that became vacant. Next year, the year 2002, three seats will be up for election. In the year 2004, three seats will be up for election. And then we're back to the year 2005, when there will be again six seats up for election.

So you see a disproportionate number of Regents will be coming up for election or reelection, whatever happens to be the circumstances, in numbers of years.

This law was changed back in the year 1993 when we reduced the size of the

board from 17 members to 16 members. However, the previous experience of having staggered terms was not continued forward.

I think -- and it's -- I think it's a wise idea, and obviously this chamber did, because we supported this bill 60 to nothing last year. The committee voted 18 to nothing to advance the proposal to the floor. It seems to be an acceptable idea.

And the simple allocation would be at the next time -- and this would not occur -- if we had passed this this year, the next time that we have more than four Regents elected would be the year 2005. And what happens is on that occasion, if there are more than four, then the successive -- or the terms for which they are elected are based on seniority.

So if all of the current members decided to run for reelection, all six, what would happen is that we've got to go back and determine when they first became a Regent, and then the first one would get the five-year term, the second would get a five-year, the third would get a five-year, the fourth would

get a five-year, the next one would get a four-year, and the next one would get a three-year.

Thereby, we would have staggered the terms so that there would be no more than four Regents elected at any one year subsequent thereto.

None of the existing Regents would have their term shortened. This would be prospectively for newly elected Regents.

SENATOR OPPENHEIMER: Through you, Madam President, if the Senator would yield again.

THE PRESIDENT: Senator, do you yield? Senator Kuhl, will you yield?

SENATOR KUHL: I'd be happy to yield.

THE PRESIDENT: You may proceed, Senator.

SENATOR OPPENHEIMER: You said for newly elected. But if in that example where you had five coming back for reappointment, then -

SENATOR KUHL: That is currently the situation. We don't know -- we don't know

what the situation will be in the year 2005 when there are then currently six positions that have their term ended.

We don't know how many of those six Regents will in fact have continued to full completion of their terms. We don't know whether or not any of them will seek reelection or reappointment.

And so what the bill does is simply says that there will not be more than four Regents elected at any one time, but there is a staggering system set up from the first time that that happens so that the terms are staggered, once and only once.

So that subsequent thereto, there will only be four Regents at any one time elected in any one year.

SENATOR OPPENHEIMER: I got it.

SENATOR KUHL: I knew there was a reason.

SENATOR OPPENHEIMER: Now, through you, Madam President, if the Senator will continue to yield.

SENATOR KUHL: I'd be happy to yield, Madam President.

THE PRESIDENT: You may proceed, Senator Oppenheimer.

SENATOR OPPENHEIMER: What would happen, Senator, in the instance of an unexpired term where someone comes in, we would elect someone to take the unexpired term, would -- wait, I'm figuring this out. That would then be, unless it's a term that ended up at 2005, it would just be the normal continuation of that term? For an unexpired term where someone has stepped down.

SENATOR KUHL: Unexpired terms really don't enter into what we're attempting to do here. We're attempting to stagger the terms for the elected Regents as they come up in each year.

And currently, in the year 2000, and then again in the year 2005, there will be six vacancies. In the year 2001, there are four vacancies. That will again happen in the year 2006.

So unless you stagger the terms, every five years there will be six Regents up for -- or six vacancies to be filled either with existing Regents who are seeking

reappointment, or the next year there will be five.

SENATOR OPPENHEIMER: So -

SENATOR KUHL: Excuse me, four.

SENATOR OPPENHEIMER: I'm confusing you.

To you, again, if you'll -

SENATOR KUHL: I'd be happy to yield.

THE PRESIDENT: You may proceed, Senator.

SENATOR KUHL: Thank you.

SENATOR OPPENHEIMER: How long, then, Senator Kuhl, would this transition take? Would it take six years for the transition to complete itself and then everybody would be on the same term?

SENATOR KUHL: No, actually it only takes one year. And that would be in the next election when there are six representatives.

Keep in mind, you have five-year terms. Okay? This last year -- and you're running in a five-year cycle. This last year we had six members who were elected. This

year we had four. Next year, there's three. The following year, there's three. Then the next year, there's six. Then there's four. Then there's three. Then there's three.

So that the next time, the next period, which would be 2005, when there are six up for election, we change those six to read only four in that year, and then thereinafter there will be four, four, and four. So you'll have successive terms of only four Regents every four years.

And it's solely meant -- the only purpose is to try to keep as much knowledge on the board as you possibly can so that there's not maximum turnover and so that you're not really facing learning all over again.

SENATOR OPPENHEIMER: Thank you, Senator Kuhl. And on the bill, please.

I think this is an excellent bill. This is something that's needed. I was just trying to figure out how long it would take before we would be on a circuit where there would be four Regents elected every year. And the answer to that would be in 2006, we would have everybody on the Board of Regents in -

four elected each year.

So I thank Senator Kuhl. That was what I was trying to work through. And I really think it's essential, because otherwise -- I think this bill is essential, because otherwise you're left with people in a very responsible position who are really determining the policy and essentially the quality of education in our state. And if many of them have turned over, like happened last year, when we had six people coming before us -- and I'll tell you, the amount of interviewing was interminable, and some of you were sitting there with us. I mean, it did go on and on.

And I think with that kind of responsibility, we simply can't have a large turnover where people are new and don't know what they're dealing with.

And I think this is a very responsible bill, and I'm happy to support it.

THE PRESIDENT: Senator Lachman is next.

SENATOR LACHMAN: I defer to Senator Stavisky.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Thank you.

If Senator Kuhl will yield for a question. A question, one question.

THE PRESIDENT: Senator -

SENATOR KUHL: I'd be happy to.

THE PRESIDENT: You may proceed, Senator.

SENATOR STAVISKY: Thank you.

Through you, Madam President, I commend Senator Kuhl for the clarity of his presentation, because I also understood it very clearly this time around.

One question. Through you, Madam President, do you foresee any other agencies participating in this staggered term? As an example, today we had five members of the Medical Advisory Committee on our calendar today. Do you foresee any changes in other appointments to boards or commissions? Since if this is such a good idea for the Regents, perhaps it's a good idea for the Medical Advisory Committee?

SENATOR KUHL: Well, Senator, in response to your question, there may be some

other members of this house who chair committees that in fact oversee other appointments.

This whole issue of reconfiguration of the Board of Regents has been a subject of concern. As a matter of fact, this house is involved in a lawsuit against the Regents.

So from my perspective, this is an oversight that wasn't taken care of back in 1993, when in fact we reduced the number of members. And I think it's something that's long overdue, because we saw last year a tremendous turnover. And Senator Oppenheimer was absolutely right. It was an interminable display in patience and persistence and certainly exhausting to all of us who went through the multitude of people who were interested in applying for the Regents.

And I think that, number one, from an efficiency standpoint of going through an appointment, this house and the other house would benefit from only having four vacancies come up a year, in successive years.

And certainly the other part of this is that you have a continuity in the

institution. There's such an important role that the Board of Regents play in establishing a curriculum for our young people in this state that it's essential that there's some continuity. And when you have a turnover of six people -- and you could have the chancellor of the Board of Regents, you could have the vice chancellor, you've got several people who head up significant committee slots -- all of a sudden, just because it's the end of their term, they've had enough and leave, and you've lost a great deal of the institution.

So I'm only concentrating on this particular aspect. I haven't looked at anything farther. My realm of responsibility is in the education arena, as the chairman of that committee. And so I can't answer your question other than to say that there may be some other members who have some thoughts along the same line.

SENATOR STAVISKY: Thank you.

SENATOR LACHMAN: Madam President.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Through you, Madam President, I have a question, if Senator Kuhl would accept it.

SENATOR KUHL: Absolutely.

THE PRESIDENT: You may proceed, Senator.

SENATOR LACHMAN: Thank you.

First, I'd like to say I think it's an excellent bill. I voted for it last year; I'll vote for it this year. In fact, I strongly believe in staggered terms. I'm looking forward to the day when the New York State Senate, like the U.S. Senate, will have six-year terms, staggered, one-third, one-third, one-third.

Short of that, though, I have a question dealing with the staggering. If a U.S. Senator unfortunately dies in office or is incapacitated and resigns, there is a special election. But you might have one year where ten members of the Regents leave, or eight members of the Regents leave. Unusual, but it's possible, because of illness, death, as well as the term expiring. So you don't have an exact staggered figure unless you work

around that.

SENATOR KUHL: Well, yes, you do, Senator, because when there is a vacancy, we fill for the unexpired term of the vacancy. So once you make this change, there are only four regular terms that terminate every five years. And so what you do is you'd fill the vacancies.

And you might have four -- if this bill were enacted into law, signed by the Governor -- certainly passed by the other house, signed by the Governor and becomes law, then you'll only have four five-year terms that end every year. But you might have a couple of vacancies where you had four more who had three years left in their term, or one more who had or two more who had two or one.

So I don't see that that presents a problem with a massive retirement. There are some members in this chamber who would like to see massive retirements.

(Laughter.)

SENATOR LACHMAN: Madam President, through you, one more question.

THE PRESIDENT: Go ahead, Senator

Lachman.

SENATOR LACHMAN: I'm happy you realize that some members would not want to see that.

But what you're saying basically - tell me if I'm wrong -- is if you do have these retirements, then just as for a U.S. Senator where there will be a special election called in a state, what we would do is have a special selection for that person who retires, so that at the appointed time of reappointment he will or she will come within the staggered four people each.

SENATOR KUHL: That's correct. And that is the current practice. We talked about six terms ending last year, if you recall.

SENATOR LACHMAN: Yes.

SENATOR KUHL: I know your memory is very, very acute this way. We actually did seven elections last year -

SENATOR LACHMAN: That's true.

SENATOR KUHL: -- because the current chancellor of the City Board of Education, Harold Levy, decided to take that

position and resign his position. So we had to fill that vacancy for the balance of his term and then fill six vacancies.

So this is meant to really limit that number of regular term endings to an average and consistent number, four places every four years.

SENATOR LACHMAN: On the bill, Madam President.

I strongly support it, as I did last year. I think it's an excellent example of nonpartisanship in the arena of policy.

Thank you kindly.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President, if the sponsor would yield.

THE PRESIDENT: Senator, do you yield?

SENATOR KUHL: I'd be happy to.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: Thank you. I'm wondering if the sponsor would allow me to go on the bill.

THE PRESIDENT: If you wish to

speak on the bill, Senator, you may proceed.

SENATOR DUANE: No, Madam President, I'm asking if the sponsor would let me go on the bill.

SENATOR KUHL: That's certainly something we can discuss, but I'm not prepared to respond to that right now.

THE PRESIDENT: Do you have a question relevant to the bill itself, the substance of the bill, Senator?

SENATOR DUANE: On the bill, Madam President.

I was very compelled earlier today when we had a joint meeting of both houses in the Assembly, and I listened very intently to the sponsor as he discussed bipartisanship and his desire for bipartisanship among all of us here in the Legislature. And I'm very much looking forward to all of us rekindling that spirit of bipartisanship as it was directly related to the issue of the Regents.

And I will be voting for this bill, and I'm hoping that everyone will be able to show their support for this bill.

Thank you, Madam President.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President. Will the sponsor yield for one brief question, please.

THE PRESIDENT: Senator Kuhl?

SENATOR KUHL: I'll be happy to.

THE PRESIDENT: You may proceed, Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President.

I believe I understand what this legislation does. And the fact that we have passed this unanimously in the last few years does not obviate the need for asking questions, particularly when the language is unclear, based on the explanation that we've heard.

So I truly am unclear on this, and I just would like a clarification before I vote in favor of this. If Senator Kuhl would please tell us, where on line 13 it indicates that "the terms of such Regents so affected shall be reduced by one or more years, based upon the order of their election," what that means.

SENATOR KUHL: To explain, Senator, that simply means that the term, whether or not it's reduced to four years or three years, will be based on seniority.

And I think I gave an example, and I explained this to you, if you may remember. I know that you're younger and your memory is much more acute than mine, simply because you haven't reached the age of 40. So I would have expected you to remember our conversation last year.

But I know for the benefit of Senators to the left of you and to the front of you, they haven't heard this, and so I'm more than happy to try to explain it again.

SENATOR HEVESI: Would you?

SENATOR KUHL: But it's based simply on seniority.

That's so that if you had somebody who was, say, a Regent who was elected in 1990 and chose to run again, and somebody who was up for reelection and it happened to be the year of the decrease of the longevity of their terms, there were six members up for election and somebody else had been selected, say, in

1990, two or three, well, then, by some method of chance the -- well, I shouldn't say method of chance -- the older person would get the longer term, the shorter-term-of-service person would get the shorter term.

That's simply what that language means.

SENATOR HEVESI: Madam President, would the sponsor continue to yield.

THE PRESIDENT: Senator Kuhl, will you continue to yield?

SENATOR KUHL: I'll be happy to yield for some other questions.

THE PRESIDENT: You may proceed, Senator Hevesi.

SENATOR HEVESI: Senator Kuhl, I actually do not remember the specific conversation that we had last year.

But I would suggest to you that my reading of the English language, and the language contained in this bill, does not jibe with the explanation that you've just provided, though the explanation that you just provided is one that is perfectly logical. And worded in this bill the way you just

explained it, I think you would have eliminated all the confusion.

That's, Senator, where it says "based upon the order of their election," that doesn't clarify for me the way you just explained the order in which the terms are going to be staggered.

So my question is, don't you agree?

SENATOR KUHL: Senator, let me just simply say to you that I found in the course of my service here that people coming from different parts of the state certainly have different environmental backgrounds and certain heredities, and they have a different understanding of the usage of the English language. I find that's the case here today.

SENATOR HEVESI: Thank you. On the bill, Madam President. Madam President, on the bill.

Thank you. Madam President, I fully appreciate Senator Kuhl and his comments here today, particularly his concession that his memory is not as good as mine, which is why it surprised him that he didn't understand why I couldn't understand his bill.

Having said that, I stand by my ability to read the English language and my statement before that this language does not fully explain the way the terms are supposed to be staggered, though that explanation is a perfectly worthy explanation. And I believe that that's why my very learned colleagues on this side of the aisle have asked questions pertaining to how the staggering should be done.

Having said that, I will accept Senator Kuhl's translation of the language of the bill, and its intention, because I do think it's a good idea. And I should like to point out that in this year of municipal term limits in New York City, that the raison d'etre for this bill is the exact reason why you should not have a complete transition of institutional knowledge and power, be it on a Board of Regents or in a elected New York City Council or in any legislature. It's a real problem.

So notwithstanding our discrepancies and disagreements with the phraseology of this bill, I do think the

intention is good and so I will be supporting the bill.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Yes, Madam President. Would Senator Hevesi yield to a question.

SENATOR HEVESI: I would be happy to yield, Madam President.

THE PRESIDENT: You may proceed, Senator Breslin.

SENATOR BRESLIN: Through you, Madam President. You've outlined some possible disagreements and interpretations to the bill.

Senator Hevesi, would you have any language that might be able to correct that situation and make the bill more easily be readable to all citizens of the state of New York, west, east, north and south?

SENATOR HEVESI: The answer, Senator, is yes. I would simply remove the phrase "based upon the order of their election" and substitute it with the process that Senator Kuhl outlined by which he intends for the terms of the Regents to be staggered

in order to prevent there from being any more than six Regents appointed in any given year.

And I'd be happy to draft such legislation if Senator Kuhl will pull this bill. And while I'm on this topic, I would be happy to include Senator Duane as a cosponsor of that legislation, since he obviously feels passionate enough to want his name associated with such a positive change.

SENATOR BRESLIN: Thank you very, very much, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Kuhl would yield for two questions.

THE PRESIDENT: Senator Kuhl, do you yield?

SENATOR KUHL: I'd be happy to yield.

THE PRESIDENT: Will you yield?

SENATOR KUHL: I'd be happy to yield to my good friend Senator Paterson.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Thank you,

Senator. Just a couple of things I'd like you to clear up for me.

Pursuant to the conversation you had with Senator Hevesi, there was something that I found confusing. Perhaps you can clear it up for me. Today we elected four Regents. Does the one who was actually elected first have seniority over the one who was elected second?

SENATOR KUHL: Senator Paterson, it would be a moot question at this point, because none of them will be in a position where they'll have to have their term shortened. There were only four of them elected, and so they don't fall into the category of having to have staggered terms.

SENATOR PATERSON: Right. Madam President, if the Senator would continue to yield.

THE PRESIDENT: Senator Kuhl, do you continue to yield?

SENATOR KUHL: Certainly, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: I was just using that as an example, Madam President, because I was just trying to understand whether the use of the word "order" related to seniority or if "order" meant the order of seniority by year.

SENATOR KUHL: Well, Senator, if you had used the example of should all six members who were appointed last year or elected last year seek reelection in the year 2005, and should there be more than four who were selected in the same year, then what I would have said to you is if there were five seeking four spots, four complete five-year terms, then if there were -- there we would use a selection method of chance to decide which in fact -- who had seniority over the other.

So seniority, under the proposal here, is a determination by year, not by the minute within which the same day that there is election.

SENATOR PATERSON: Okay. Thank you, Senator. I didn't get that, as I guess Senator Hevesi didn't either.

But a final question unrelated to this question.

SENATOR KUHL: I'll continue to yield, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Madam President, if we have five-year terms and we are electing four members to the Board of Regents every year, that would accommodate 20 seats. So is it not correct that in one of these years, if we elect four every other year, we would only be electing one member to the Board of Regents?

SENATOR KUHL: No, what we're saying is there's a realignment to make sure that the existing 16 are there, sitting, but no more than four in any one year.

SENATOR PATERSON: Thank you, Senator.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could call up Calendar Number 220.

THE PRESIDENT: The Secretary will read Calendar 220.

THE SECRETARY: Calendar Number 220, Senate Budget Bill, Senate Print 3456, an act to amend Chapters 50, 53, and 55 of the Laws of 2000.

SENATOR SKELOS: Is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is, Senator Skelos.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: The motion is to accept the message of necessity. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is

accepted.

Senator Skelos.

SENATOR SKELOS: Last section, please.

SENATOR STACHOWSKI: Explanation.

THE PRESIDENT: The Secretary will read.

The bill is now before the house. Senator Stafford.

SENATOR STAFFORD: Thank you.

Madam President, this is a deficiency bill, and it would increase the 2000-2001 appropriations for the following. It would provide appropriation for the Fiduciary Fund increase of $3,159,600 for the Retirement Systems' administrative costs. It also would provide an appropriation for an Internal Service Fund increase of $420,000 for the investments and cash management program, also for the same system.

It would also charge for the general state charges the General Fund increase of $23.5 million. And this is for an assessment imposed on the workmen's compensation insurance carriers, and it would

be repaid. And this is pursuant to a court order.

Also, it would provide an appropriation for the Special Revenue Fund increase of $96.8 million for the State University Hospital income reimbursement account.

And, finally, it would provide an appropriation to the General Fund, an increase of $19.6 million. And this is for the extraordinary costs for the winter we've had here in the state and the ice and snow removal.

I would point out that the appropriation for the Retirement Systems and also for the hospital account are just appropriations of those accounts. But that is necessary, the appropriations are necessary to have the money available. And the other two appropriations are of course charged to the state.

I might add this is a very, very, very reasonable deficiency bill. And having been here for a number of years, I would even hasten to add that this is the smallest

appropriation, deficiency appropriation that I have seen come before this august body.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Would the Senator yield for a couple of questions.

THE PRESIDENT: Senator Stafford, do you yield?

SENATOR STAFFORD: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR STACHOWSKI: Senator, on the insurance part of this, the workers' comp part of this deficiency piece, I know that it's a court decision and that the money goes back, because they took money from their reserve. And when a reserve goes down, the people that are being insured have to pay to get the reserve back up.

Is any of this money that's going back to the insurers going to then pass back to the people that are paying these high workers' comp coverage costs? Or is it just going to stay with the insurers?

SENATOR STAFFORD: I think your

question, which is perceptive, and I think an appropriate question, I think it even suggests the answer.

SENATOR STACHOWSKI: Madam President, if the Senator would continue to yield.

THE PRESIDENT: Senator Stafford, do you continue to yield?

You may proceed, Senator.

SENATOR STACHOWSKI: Since it gives the answer, would you mind sharing that answer with me?

(Laughter.)

SENATOR STAFFORD: I would suggest that, as you were saying would this accrue to the people being covered, the answer is in the affirmative.

SENATOR STACHOWSKI: If the Senator would continue to yield.

THE PRESIDENT: Senator, do you yield?

You may proceed, Senator.

SENATOR STACHOWSKI: I know that you're telling me that, and I'm looking through the paperwork on this, and I know that

the money goes back to the insurers.

But I don't know if it goes back to the people that you say it does. So I'll leave it at that. It's still kind of peculiar, because I'm not sure that it does actually -- is it -- if it in fact will reduce any coverage.

It's my understanding in talking to some people previous to this, and that's why I asked the question, was that it will just stay with the insurance companies that are providing the coverage and won't provide any relief to the people that are paying the premiums.

SENATOR STAFFORD: Well, let me -- this is sort of a broad stroke with a conceptual brush.

Obviously, as you suggested, if the reserves are strengthened and the insurance companies are strengthened and the funds are made available to the insurance companies, therefore the actuaries, the actuaries will find it necessary to take that into consideration. Ergo, you would find the rates reflecting the actuaries' research.

SENATOR STACHOWSKI: Thank you, Senator. Now I got that part of it. I understand that in the future, the rates should be lower as a result of this money going back to the insurers. And that I understand.

So then it does stay with the insurance companies. But by being in the - should provide more in their reserve, and therefore lower the rates in the future years. So that would be good for the businesses that are again crying out that the workers' comp coverage still is so high and it's one of their problems with doing business in our state, and hopefully that this will be another step in the direction of helping New York be a better state to do business in.

Now, on the other part of this, on the hospital part, this money -- and I know you explained this in committee, but a lot of the people in the room, particularly on my side, aren't on Finance. And I think it would help us all -- and if the Senator would continue to yield, now that we switched Madam Presidents, but still being a Madam

President -- if the Senator would continue to yield, I'll have another question.

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

SENATOR STAFFORD: Certainly. Certainly.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR STACHOWSKI: Senator, I know in your brief description you mentioned that the money is there, it's money that the hospitals have collected. But in order for them to get that money -- or use that money, rather, we have to appropriate that money. Is that correct? And if so, could you give a brief description of how that works for the members on my side that weren't there to hear that brief description that you gave in Finance?

SENATOR STAFFORD: Well, I was complimented on that dissertation today in committee. I just hope I can do as well again.

Actually, of course, this is a fund, and it's a fund which is collected by

the hospitals. As we all know, the hospitals are a great part of our State University system and a great part of the hospital fund complex here in the state of New York.

Now, the hospitals will be able to spend additional revenues generated from higher patient volume to cover costs incurred by these three SUNY hospitals. We all know it is very, very difficult to operate a hospital. And with the larger volume, they've been able to collect additional money. We're now making it possible for them to spend that on the hospitals. But in order to spend it on the hospitals, we have to appropriate it.

SENATOR STACHOWSKI: Madam President, if the Senator would continue to yield.

ACTING PRESIDENT McGEE: Senator Stafford, will you continue to yield?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR STACHOWSKI: Senator, would any of this money -- and I understand that explanation. I think you did it as well

as you did it in committee today, and I have to compliment you again. And then I know someone else complimented you earlier.

But would any of this money, since there is an increased patient load and obviously more money, would any of this money be used to lower the debt that they have? Like -- because, you know, the hospitals, the SUNY hospitals have about $116.2 million in a deficit that the -- that someday we'll have to address. And I know that there's an increase in patient load, but I don't think it was that big.

SENATOR STAFFORD: I have -- of course, as I said, I hate to keep mentioning this, but -- for some people, this is good; for others, it may not be. But I have been reviewing budgets now and have been here each year with a budget. And I can remember 36 years ago, the hospitals were a very, very severe issue when it came to operating them and when it came to keeping them open. And we all want to do that. They're teaching hospitals. They're excellent hospitals.

Now, no one would rather -- no two

people would rather take care of debt than you and me. All you have to do is look at the areas we come from. On the other hand, we want to make sure that we keep the hospitals operating. And therefore, we're doing our best to provide these funds to keep them operating.

SENATOR STACHOWSKI: Thank you, Senator. Briefly, on the bill.

ACTING PRESIDENT McGEE: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: I happen to agree with Senator Stafford as far as the deficiency budget bill, this is a rather small one as compared to other years. The three areas covered are pretty well defined. The hospitals have to have an appropriation to use the money that they collected in patient care. The obvious snow and ice removal that the bills that we have this year, for even - you've just got to look out a window currently, and obviously not the painted ones, but ones you can see out of, and you'd see that we still have snow and ice, and that expense has been a little greater than usual

this year. And this insurance piece, the workers' comp piece, is a result of a court case.

So I think that Senator Stafford was right in saying that it's a small deficiency package. I have to agree with him on the hospitals, that we have to keep them open. And in particular, I know in his area a big concern is to make sure that Syracuse stays open, because sometimes people from his and Senator Wright's district might be -- if they get hurt in his area and the local hospital treats them, they might not have the capability, if it's of a serious nature, and they might have to be sent to Syracuse Medical.

And I know the same goes for Senator Seward's district and probably some of Senator Meier's district, because those hospitals are a little bit smaller and these teaching hospitals not only teach but they provide some of the more extensive services for hospitals that are smaller and may not have all those services available.

So I don't disagree with any of

that. And I just think that we should be passing this and taking care of these bills and doing what we can to make sure that the SUNY hospital system stays open.

Thank you.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Through you, Madam President, would Senator Stafford yield for a few questions.

ACTING PRESIDENT McGEE: Senator Stafford, do you yield for a few questions?

SENATOR STAFFORD: May we please lay it aside.

ACTING PRESIDENT McGEE: Lay it aside for the day?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business at this time, I move we adjourn until Wednesday, March 14th, at 11 a.m.

ACTING PRESIDENT McGEE: On

motion, the Senate stands adjourned until Wednesday, March 14th, at 11:00.

Thank you.

(Whereupon, at 5:45 p.m., the Senate adjourned.)