ALBANY, NEW YORK

April 14, 1994

1:43 p.m.

REGULAR SESSION

LT. NICHOLAS A. SPANO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT SPANO: The Senate will come to order.

All please rise for the Pledge of Allegiance to the flag.

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

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

Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, April 13th. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Tuesday, April 12th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT SPANO: Hearing no objection, the Journal stands approved as read.

Petitions; messages; motions. Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of my colleague, Senator Lack, on page

14, I offer the following amendments to Calendar Number 503, Senate Print Number 3599, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT SPANO: Without objection.

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT SPANO: Senator Goodman.

SENATOR GOODMAN: Mr. President, I was away from the chamber on Senate business when the votes on Calendar Number 354 and 396 were taken. I'd like to have the records reflect that had I been in the chamber at the time of those votes, I would have been recorded in the negative on those two bills.

ACTING PRESIDENT SPANO: Without objection, the record will so indicate.

Any other motions, resolutions?

Senator Present.

SENATOR PRESENT: Let's take up the non-controversial calendar, please.

ACTING PRESIDENT SPANO:

Secretary will read the non-controversial calendar.

THE SECRETARY: On page 11, Calendar Number 434, by Senator Levy.

SENATOR PRESENT: Lay that bill aside for the day.

ACTING PRESIDENT SPANO: Laid aside for the day.

THE SECRETARY: On page 15, Calendar Number 569, by Senator Larkin, Senate Bill Number 7557.

SENATOR GOLD: Can we have a day on this?

SENATOR LARKIN: You may have a day.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Laid aside for the day.

THE SECRETARY: Calendar Number 570, by Senator Nozzolio, Senate Bill Number 4102-A, an act to amend the Agriculture and Markets Law and the Town Law.

ACTING PRESIDENT SPANO: Read the

last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 42.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 571, by Senator Cook, Senate Bill Number 4753, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 43.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 573, by Senator Kuhl, Senate Bill Number 7545, Agriculture and Markets Law, and the Environmental Conservation Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 574, by Senator Kuhl, Senate Bill Number 7546, Agriculture and Markets Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 43.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 575, by Senator Kuhl, Senate Bill Number 7547, an act to amend the Agriculture and Markets

Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 576, by Senator Kuhl, Senate Bill Number 7548, Agriculture and Markets Law, in relation to including livestock management in the integrated pest management program.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present, that concludes the non-controversial calendar.

SENATOR PRESENT: Mr. President, can we take up Calendar 573.

ACTING PRESIDENT SPANO: Secretary will read Calendar 573.

THE SECRETARY: Calendar Number 573, by Senator Kuhl, Senate Bill Number 7545, an act to amend the Agriculture and Markets Law, and the Environmental Conservation Law.

ACTING PRESIDENT SPANO: Senator -- Senator Gold.

SENATOR GOLD: Yeah, if you will bear with me just one second, please. Mr. President.

ACTING PRESIDENT SPANO: Senator Gold, on the bill.

SENATOR GOLD: Would Senator Kuhl yield to one question?

ACTING PRESIDENT SPANO: Senator

Kuhl, would you yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT SPANO: Sponsor yields.

SENATOR GOLD: Yeah. This is a plan identical to the bill we passed last year and vetoed by the Governor.

SENATOR KUHL: That's correct.

SENATOR GOLD: Mr. President, on the bill.

We did pass this last year with only one dissent. I notice that there were - there were some letters dated just a couple days ago in opposition, one from Oneida-Herkimer Solid Waste Authority which was sent to Senator Hoffmann, and one from the Onondaga County Resource Recovery Agency, again to Senator Hoffmann, and -- but aside from that, I don't seem to have anything else that's on the bill aside from the veto message.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 42, nays 3, Senators Espada, Gold and Leichter recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, there comes that time when we stand at ease.

ACTING PRESIDENT SPANO: The Senate will stand at ease.

(The Senate stood at ease from 1:51 to 2:50 p.m.)

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: Mr. President, can we call up Calendar Number 552, please.

ACTING PRESIDENT SPANO: Senate will come to order. Secretary will read Calendar Number 552.

THE SECRETARY: On page 15, Calendar Number 552, by Senator Tully, Senate Bill Number 6775-A, an act to amend the Public Health Law.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Mr. President, if my distinguished colleague from Nassau would just give a brief explanation since it was an add on, at least to alert people as to which bill we're dealing with.

ACTING PRESIDENT SPANO: Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

This bill provides that there will be direct medical intervention at the most effective point in preventing HIV transmission to a child, the first prenatal visit during which the pregnant woman is counseled on HIV and offered HIV testing.

The amendments would add new requirements that, at the first prenatal visit

and upon delivery for those who have had no prenatal care, every new mother would be informed, one, that a sample of the infant's blood as currently required by the state DOH may be tested for HIV along with other congenital diseases; two, that the HIV antibody test while used for health research purposes is not medically valid for a diagnosis of HIV infection in her own child, and three, medically appropriate tests will be conducted upon a mother's request in order to accurately determine and inform her of her HIV status or of that of her infant.

Basically, Mr. President, the current purpose of the existing study is to see if the mother has the HIV virus. It does not test the baby, and the test is not done on every baby. In 1988, they missed 10,500 babies because they couldn't get enough blood. The current test is not a diagnostic test approved by the FDA but is a research test to acquire data.

This, Mr. President, will act to

preserve the health of all of the infants in this state who were born with AIDS, roughly amounting to 1900 in this state out of the 300,000 babies born each year. Of that 1900, roughly 250 to 450 will be HIV-infected and that's approximately one HIV-infected baby born every day. These infants could be prevented from receiving HIV from their mothers with this legislation, and I urge all my colleagues to join me in its support.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, there are certain catch words that are very politically sensitive today, as we all know, and I was watching television last night, and I saw some AIDS activists disrupting a town hall meeting of Mayor Giuliani. We know that we've had incidents in this chamber, and I know that there isn't one person in government who isn't sensitive to the fact that AIDS and HIV and this

whole issue is something that threatens everybody in our society, and we ought to be doing something about it.

Having said that, Senator Tully, I think there are certain things that ought to be out here. First of all, there is a bill sponsored in this house, I believe by Senator Velella, and sponsored in the Assembly by Assemblywoman Mettie Mayersohn, which deals with the subject of testing and deals with the issue of whether or not, if a child has the HIV virus, it should be told to the mother whether treatment should be happening.

This is an issue that is debated as to whether or not, what is it, AZT, ATZ, does what its advocates say it does or whether or not it is more dangerous to give it to infants than not give it. There was a television program I saw about a week ago where there was medical testimony being given which suggested that HIV alone doesn't even cause AIDS. There was testimony given to the fact that, or the allegation that there have been people who have

had AIDS who have been cured -- the word "cure" was used -- by a process that is being used and tested in Europe, but obviously it's always more difficult in America to get certain things tested.

Now, I say all of that, Senator Tully, because I'm distressed that we're debating your bill for only one reason. I have no problem saying in public what I say behind your back, Senator Tully. I think that this bill is a sincere effort on your part to deal with an issue, but I think that Assemblywoman Mayersohn and Senator Velella are just as sincerely involved in this, and I think that perhaps there ought to be some way of putting these bills together or having some middle ground.

The suggestion, I think, has been made, at least in the political rhetoric, that your bill is in some way a different answer to the problem of Assemblyman -- Assemblywoman Mayersohn. She does not believe that. She believes that it's -- that there is ground that

is missing, so I really feel that it's a shame that we're debating it this way. It's just too significant an issue to be, I believe, politicized, and I'm not suggesting you're doing that, Senator Tully. I don't, you know, charge you with any -- anything other than good faith.

SENATOR TULLY: Perhaps I can explain it to you a little better than I did before.

SENATOR GOLD: If you're asking me to yield, it would be an honor.

SENATOR TULLY: Thank you very much, Senator Gold.

This bill is not a compromise bill to any other piece of legislation pending in this state. This bill stands on its own. It does not deal with testing as other pieces of legislation do after the fact. This bill is the first time in the AIDS epidemic that we can do something to prevent children from being born with HIV.

We're dealing here with the virus. We're not dealing with the HIV antibody

which some other legislation may discuss which deals with a research test which only tells one thing. It says that the infant that they've tested, if they test all the infants -- and they don't -- it says if that infant is tested that there is an antibody which reflects that the mother may have an HIV antibody, in no way does it indicate that she has the virus and in no way does it tell you anything about the infant.

My legislation deals with the infant. It's what you might call a "baby bill". It's done during the course of pregnancy. It has no relation whatsoever to any other piece of legislation, and I'm sure, Senator Gold, that you know that this bill is supported by just about every organization that deals with this very vital subject. I can name them for you if that's significant to you, but I think you have them. It would probably take another 15 minutes to name all of the organizations that support this piece of legislation.

Of greater significance is the

fact that this legislation came out after the results of the federal AZT study whereas the other piece of legislation was in before it. This bill deals specifically with the health of the infants that could be born and possibly have contracted the AIDS virus, and it provides with the mother's consent that they can be tested for the virus, not for an antibody which means nothing other than the fact that maybe the mother could contract AIDS.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT SPANO: Senator Oppenheimer.

SENATOR OPPENHEIMER: This is a bill that I strongly support, and that is sup ported by -- by many groups, most specifically the AIDS Council.

The importance of this bill is that the counseling and information on the benefits of HIV testing and of early treatment can reduce the risk of transmission to the new born. There has been rather astounding results

announced a couple of weeks ago from Washington that showed that in those cases -- and this was from the U. S. Center for Disease Control and Prevention -- that in those cases where they actually treated the affected HIV-positive woman, that in those cases using AZT during the pregnancy, if -- it is actually reducing the incidence of HIV, the transmission to the new borns at an absolutely astonishing rate of 67.5 percent.

This is very new. Until so recently we didn't realize this was possible or conceivable, but it is such exciting news, and we feel that women will voluntarily enter this program to have the testing done during their pregnancies, and that we are not only saving the lives of the children; we will be saving the state money and this is a win/win, and as Senator Tully, who has put this bill before us and done an excellent job, has already said, this is supported by just about every group involved in this issue in the state and indeed in the country.

ACTING PRESIDENT SPANO: Read the last -- Senator?

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT SPANO: Senator Velella.

SENATOR VELELLA: I commend Senator Tully for putting together what I think is a good first step to addressing some of the problems that we're facing on the issue of testing for AIDS. It's a good first step, but there's more that needs to be done, in my opinion.

This bill will make available counseling, will make available testing, and it probably will save some lives of children who would be exposed or who will develop the full-blown AIDS disease.

Right now, in New York State, under the current law, we test every baby that is born anonymously for AIDS. That means that their blood is drawn, they're tested and they're tested for the virus, and that result is kept confidential. It's called "blind testing". The

mother, no one, finds out if that test comes back positive for the virus and it's very important that -- I make it a very important issue that I have a bill that will reveal to the mother the results of that test.

And why do I think it's important? It's important because there are three very basic things that will happen: One, if a child has the virus, in many cases they will reject it within the first several months of life unless that mother breast-feeds the child and reintroduces it through the breast feeding process, and there's medical evidence to show that that can happen.

Secondly, a child who has the virus should be treated in a different way. Their innoculation program is modified because they have this virus. It doesn't make sense to shoot a live polio vaccine into a child that may be developing full-blown AIDS or may have that virus. So a weakened form of the vaccine is put into place.

And thirdly, within that first

month of life, that child should be receiving certain antibiotics so that they will not develop the pneumonia associated with children who have AIDS. Those are three very important reasons why a parent should be made very much aware of the fact that the test has come back positive.

Communicable diseases are not strange to this Legislature. Long before any of us were here, they were dealing with those types of diseases, whether it be tuberculosis, syphilis, venereal diseases, the various diseases that are communicable, and we've put some very good health law policies on the books and let's take a look at how we deal with other communicable diseases as opposed to AIDS, because I submit to you, we have a special category for AIDS.

AIDS is the first politically protected disease known to man. When we talk about AIDS, everything else goes out the window. All reason goes out the window. We have to do the politically correct thing. I

submit that we have done some of the things for other diseases that we ought to be doing for AIDS.

Let's take a look at section 2308 of the Public Health Law. Every physician attending a pregnant woman in this state shall, not may, shall in the case of every pregnant woman so attended, take or cause to be taken a sample of blood from such woman at the time of first examination and submit such sample to an approved laboratory for standard serological tests for syphilis.

Section 2500, at the same time a blood sample is taken for a test for syphilis, every physician or authorized practitioner attending a pregnant woman in this state shall, in addition, submit or cause to be submitted such sample to an approved laboratory for a standard serological test for Hepatitis B.

Two major diseases, communicable diseases, mandated by law. You must take blood and test for these and let the people know they have it, not for AIDS. Even for tuberculosis,

the Commissioner shall have full power and authority to make or cause to be made such laboratory tests or X-ray examinations as, in his judgment, may be desirable to detect tuberculosis.

We even provide in the law that if they're -- someone is suspected of these diseases, they may be detained until the results are known but not for AIDS. That's treated specially.

Article 27 of the Public Health Law devotes 39 pages to what we can't do about AIDS and only two pages to diabetes, burn care, birth defects, hypertension and a battery of other diseases. But 39 pages on what we can't do about AIDS.

Why? Once again, I submit because it's the only politically protected disease. I heard Senator Waldon the other day talk in this chamber when we discussed the fingerprinting bill, that some minority people and some poor people would be intimidated by fingerprinting, they might not seek out the help

that they're entitled to because they were intimidated by the process. Right now, if you ask someone for their voluntary consent, you'd have to have them fill out this form which is the most intimidating thing I've seen: Pages of explanations telling you that you're likely to be discriminated against if this test comes back positive, in your housing, your employment or other means of discrimination may be employed against you.

That's what you ask a woman to sign when she takes the voluntary test for AIDS. Every other disease is this simple form. You just list the test. The doctor gives his consent, advises that he's explained the test, what the -- what the repercussions would be and the person signs the form. Not for AIDS. We have this form, because we have to politically protect it.

This voluntary program is falling flat on its face. Let me tell you what's happening in 26 hospitals, targeted hospitals. All of our voluntary programs in hospitals like

Albany Medical Center, Bellevue, Beth Israel, Bronx-Lebanon, Bronx Municipal, Brookdale, Coney Island, Harlem, Kings County Memorial, Lutheran Medical, Mount Sinai, Nassau County Medical Center, New York hospital, North Central Bronx, Presbyterian, Central Bronx, and on and on, 24 of the top targeted hospitals from July 1, 1993 to September 30, 1993, the voluntary testing program with all the counseling that we've put in with good intentions, all the advice by the professionals yielded 36 positive HIV tests.

In those same hospitals at the same time, the same period of time in those hospitals, the blind testing, the testing of every baby born in that hospital showed us that there were 226 babies born in that hospital that tested positive, only 36 of which positive tests were the result of our positive -- of our voluntary program for administering the test.

That means that 84.1 percent of those babies went home with a positive reaction and not knowing that they would have the possibility of developing full-blown AIDS, going

back home and possibly being breast-fed by their mothers and reintroducing the virus, going on a regular innoculation schedule when they should be on a special one and going on a program that would not protect them against the dangerous pneumonia that they could develop.

Probably the only thing wrong with my bill is, I think it makes too much common sense. It says that, if we test a baby as we're doing now, the mother ought to be told. The adoptive parents ought to be told or the foster parents. It maintains all the other protections, all the other requirements for confidentiality, but I think that we are being negligent and being very narrow-minded when we yield to certain political pressures that make this a politically protected disease.

Senator Tully, I commend you on your bill. It goes a long way for taking a first step, but I'm hopeful that we'll see some more steps taken in the near future, and I urge your committee to look at it more carefully.

ACTING PRESIDENT SPANO: Senator

Gold.

SENATOR GOLD: Yeah. Would Senator Tully -- Senator Velella yield to a question?

SENATOR VELELLA: Yes.

ACTING PRESIDENT SPANO: Senator Velella yields.

SENATOR GOLD: Senator, these questions are not by way of hostile debate. They're by way of trying to just get some in formation out on the floor. Do you know what the percentages are of these newborn babies that -- who, if not treated in any way, cure themselves within the first 18 months? I'm told that if there -

SENATOR VELELLA: I think it would probably be more than the majority.

SENATOR GOLD: Yeah, it's a substantial number, isn't that right?

SENATOR VELELLA: It's a substantial number. I think it's within about the first eight months, is it, about the first eight months. Suzi, you can answer yourself if

you like.

SENATOR GOLD: I don't know.

ACTING PRESIDENT SPANO: Senator Oppenheimer, do you wish to be recognized?

SENATOR OPPENHEIMER: Thank you, Mr. President. Within the first five to six months, the vast majority, 65 to 75 percent.

SENATOR VELELLA: Well, a substantial or vast amount will reject these antibodies on their own natural progression. They reject the birth mother's antibodies unless they're reintroduced through breast-feeding.

SENATOR GOLD: Will Senator Velella yield to another question?

ACTING PRESIDENT SPANO: Senator Velella yields.

SENATOR GOLD: Senator, I understand the concept of Senator Tully's bill and don't have any problem with it, but I'm curious, if today we have these hospitals doing pilot programs and they are unsuccessful, I think your figure was 84 percent of the time -

SENATOR VELELLA: Well, at those

those targeted hospitals.

SENATOR GOLD: -- in convincing people to participate in what seems to me to be a similar kind of consent to the Tully bill, what makes us think then that the Tully bill, even very well motivated, will work if people are going to turn it down? What are we doing wrong now in the educational and hospital, and so on, studies?

SENATOR VELELLA: Well, there has been some degree of substantial success in Harlem Hospital, although it's not the success that I would have liked to see. Senator Tully's bill -- and he can explain it himself I'm sure -- encourages a wider use of this, a more aggressive use of this -- of this testing process, and perhaps he can better explain his own, but it will encourage -- and let me tell you, either bill alone, I feel, is inadequate.

Certainly we want to encourage the prenatal testing because that's where the latest medical results are showing the most impact can be had with AZT treatment, but there

is still a gap after the baby is born that I am trying to plug. This goes the longest way possible to doing the prenatal treatment.

My bill addresses the post-birth system that I think is definitely lacking and needs the follow-up punch. Either bill on their own isn't enough, in my opinion.

SENATOR GOLD: And will you yield, Senator, to one last question?

SENATOR VELELLA: Yes.

SENATOR GOLD: There was a comment made, and I think it was a part of the television show that I'm referring to, which distressed me, and I'm not sure whether it's accurate, and I'm not sure whether you know whether it's accurate or not.

The comment was made that AZT itself is very dangerous, that you've got to wear gloves to handle it. It's got all these poison notations on it, and the implication was made, I think it was more than an implication, I think the statement was made that in treating the unborn fetuses or the mother during

pregnancy, that that itself was causing deaths to the fetuses.

Now, I've never heard that.

SENATOR VELELLA: Senator, I've never heard that; I've never heard it.

SENATOR GOLD: I've never heard that, and I do not believe it to be the fact, but I'm wondering whether you know anything about that accusation.

SENATOR VELELLA: I've never heard it, but let me tell you, once again when discussing this issue, there is a lot of political emotion here. There were some wild charges around about Senator Tully's bill, wild charges around about what's going to happen with my bill, and this certainly, in my mind, unless I see something different, and I've tried to read up as much as I can is one of those wild charges made. It has no substance.

What do those wild charges mean? What is it going to do? It's sort of like saying when a person has cancer and goes into chemotherapy, you're introducing poisons into

their system and they're going to have very negative reactions, but you're saving their life probably in the long run. That's the only analogy I can see.

ACTING PRESIDENT SPANO: Senator Jones.

SENATOR JONES: First of all, I would like to say I don't disagree with many of the points that Senator Velella just made. If we lived in an ideal world, it would be treated as a communicable disease as any other, and we wouldn't be be having this discussion.

But nevertheless I want to commend Senator Tully for this bill that he has before us today, and I'm glad you mentioned Harlem Hospital because I personally have had the opportunity because of my own experience with emergency medicine, to visit there and to meet with Dr. Cooper and to look at the results that they have had there with voluntary agreement by the mothers to testing, and so it is successful there, and I guess I would have to say we need to look at what they're doing

differently than the hospitals that we're talking about that aren't successful.

But I think the point that that has changed is the study that has said AZT will help prenatally. Prevention, no matter what we're talking about, whether it be disease or education, is certainly the way we want to go. We've learned that we can operate on babies in the uterus. We can change blood supplies, so if we can indeed use this and prevent these babies from being born with the HIV, then I certainly think we need to put as much effort as possible there.

I don't think voting for this bill really has any bearing on whether or not you, at some other time, would support Senator Velella's bill, but I think this is an excellent bill, and I commend you, Senator Tully, and I certainly am very supportive of it and your efforts.

ACTING PRESIDENT SPANO: Senator Paterson.

SENATOR PATERSON: Mr. President,

I think it's kind of a well established fact at this point that only 12 percent of those people who are treated for chemotherapy, of certain types of cancer, are actually able to survive and at the same time 15 percent of the people who are treated actually contract other forms of cancer. And so I point that out to try to state that when we're looking at cures or proposed treatments for different viruses, that we really have to look at the fact that many -- much of our information is coming from a source that is certainly too close to many of the companies that profit off of these types of ventures for there to be a real and just survey.

So even this most recent study that demonstrates that AZT has been helpful in treating cases where the mother tested positive for the HIV virus and that it was effective in the treatment such that the child was born testing negative for the HIV virus is something that may be a step in the right direction, but I think in many respects is being regarded as an absolute fact when it was a study that only

tested 900 women and could, in many ways, be challenged by other medical evidence.

I'm not saying that the study is wrong. I'm just saying that every time there is any kind of a study that demonstrates the slightest bit of improvement in conditions for people who have become victims of the HIV virus, there is national publication over these types of issues when, in fact, there are people walking around and the New York City Department of Retrobiology, the Bureau of Immunology, has tested people who now test HIV-negative who at times tested HIV-positive; and so I'm saying I would think that if that were the case that there would be national headlines about who these people are, but that the objection may be to the type of treatment that they have preferred, not AZT, DDI or DDC.

I challenge anyone in this chamber to demonstrate to me any person who has been treated with AZT for a period lasting over three and a half years who has not suffered immeasurable damage to their immune system.

Well, why wouldn't that be the case? We're treating an immuno-depressant virus with an immuno-acute drug, and so in my opinion all AZT does is it elevates the T-cell count of the individual who is afflicted which, in many cases, delays what is the impending fatality but has never been shown and has never really ever purported by anyone to have demonstrated any kind of curing.

So when we start talking about what we can do for people who have contracted the HIV virus, Senator Velella is correct that in cases where the baby sero-converts from HIV-positive to HIV-negative within 18 months, which I think some of the statistics run as high as 65 percent of those babies doing that, the breast-feeding of the child would certainly contribute to a fatal medical situation because, as Senator Velella very eloquently pointed out, the mother is reinfecting her own child.

So that would be a very strong argument for this information becoming available. But when we start talking about

needing to test so that we can start to provide medical treatment, I find that to be in some respects hypocritical if we are not going to take a hard look at what those treatment - proposed treatments may be and how in many respects, we have taken AZT which was actually a drug that was found not to be a good cure for cancer, that was put into effect in the shortest period of time that the American Medical Association ever validated any such substance and has now been operating as the main drug to treat people with the HIV virus for over eight and a half years that we have not really looked into any other kind of treatment and anyone who suggests any other kind of treatment is treated like a pariah, and I think throughout history we have found that there are men and women who took first steps down new roads armed with nothing but their own vision, and we're having that problem today.

There have been too many periods in history that every new invention was de nounced and every new opinion was in many ways

thwarted because we as a society were not even interested in treating diseases but rather created political implications to what the diseases were, and we had that problem earlier this century with tuberculosis.

So while I will vote for this bill and would even consider Senator Velella's bill, I think that it is for all of the zeal and the energy that I'm hearing here today for talking about how to test people, how can we really test people when the reason that we're getting such a low response to voluntary testing, Senator Velella, I would suggest is because people believe, and it is probably true at this point that we do not know a cure for the HIV virus, so in some respects other than the fact that you would be reinfecting other people, there is almost no positive reason to actually know whether you have it or whether you do not have it.

But what we can possibly do through this discussion is to start talking about giving opportunities to many of the health

care investigators which the federal government sponsors and has 945 of them right now, to really start looking into whether or not we can work at trying to eradicate this problem, what has become a tragic problem in this society.

But I would suggest that I have been in contact with researchers on this subject who have said that they would like to try to treat people who are in AIDS hospices, who are in obviously a situation where even our own medical communities feel that they have been rendered in such a state that they cannot be helped by any cure that we know of, and perhaps try some other remedies.

I am not suggesting that there is anybody in this country that knows a cure. I am only proposing that our scope of investigation has not been wide enough, and you would think that it would be just the reverse when we realize that we now have 300,000 cases documented in this state, that we have 52,000 cases documented in New York and half of them were documented after 1990, meaning all the

cases up to 1990 were doubled in the last four years.

I think it is a significant issue that compels us to act. I'm happy that both Senators have presented what would be their initial approaches to how to treat it, but if we are going to stand on principle in these discussions, let's start discussing the principle of how we have, in many ways, been bamboozled into thinking that there are only a couple of treatments for this virus and impending disease when there are other treatments that cannot get a public hearing.

ACTING PRESIDENT SPANO: Senator Tully.

SENATOR VELELLA: Excuse me.

ACTING PRESIDENT SPANO: Senator Velella.

SENATOR VELELLA: Would Senator Paterson yield to a question?

SENATOR PATERSON: Sure.

ACTING PRESIDENT SPANO: Senator Paterson, would you yield?

SENATOR VELELLA: Senator Paterson, would you agree with me and I agree with a lot that you said, that regardless of the modality of treatment or the choices available, the first step is in ascertaining out whether a person does or does not have AIDS and letting them know whether they have the disease and that they should then be trying to seek out the best available attention.

SENATOR PATERSON: Without question, Senator.

SENATOR VELELLA: And that either one of these bills both try to do that. That's what I wanted to point out. Thank you.

SENATOR PATERSON: I am in complete agreement with that, Senator.

ACTING PRESIDENT SPANO: Senator Tully.

SENATOR TULLY: Yes, Mr. President.

I had not intended to prolong the debate because I felt that this subject was so significant and the support was so unanimous

that we wouldn't have to go into it once I made the initial statement that I made at the opening of my remarks, that this was not a compromise bill.

It is definitely not a compromise bill. It is one that comes from the Health Committee, from the chairman of the Health Committee, and after a great deal of research, and I now will indicate those who support the bill because those who support the bill are far more knowledgeable than I am or any of those who spoke in this chamber today.

Supported by the Hospital Association of the state of New York; the American College of Obstetricians and Gynecologists; the New York State Nurses' Association, the American College of Nurse Midwives; the New York City Health and Hospitals Corporation; the Nassau-Suffolk Hospital Council, the Bellevue Hospital Community Board, the League of Women Voters; Family Planning Advocates; the Community Family Planning Council; Statewide Youth Advocacy; the Center

for Reproductive Law and Policy; the Federation of Protestant Welfare Agencies; Positively Pediatrics, a local organization for parents of children with AIDS; the National Association of Social Workers, the New York State AIDS Advisory Council; the AIDS Council of Northeastern New York; the Nassau County HIV Commission, the New York AIDS Coalition; the Long Island Association for AIDS Care; the Rochester Area Task Force on AIDS; the Central New York HIV Care Network; the Black Leadership Commission on AIDS; Gay Men's Health Crisis, and the following groups of national physicians in favor of mandatory counseling and against mandatory testing: The American Academy of Pediatrics; the American Medical Association, the American Public Health Association, and the National Academy of Sciences Institute of Medicine.

These people, as I said, have had dealings with this monstrous problem. They're far more knowledgeable. I think they know whether a bill is, as some people have said, politically correct, and they know that this

bill is medically correct. It's the thing to do. I'm not speaking of any other legislation. I speak of mine only, but there is misin formation that's been given today.

Senator Velella indicated that the babies are tested for the virus under the research tests today. They are not tested for the virus. They're tested for antibodies. He also said that it was possible for the child to reject the virus. That's absolutely medically impossible. If you have the virus, you die, period, case closed. That's basic understanding of the issue.

There's never been a case of an AIDS child contracting polio. Harlem Hospital has one hundred percent, not 99, one hundred percent, it's identification of infected infants. 75 to 80 percent of those who test positive in this particular situation with the current testing are fine.

AZT is definitely, Senator Gold, extremely toxic, but it's the only game in town. It's the only thing that helps those who

are infected today. More importantly, and to be understood with respect to this legislation which does what it should do early, it precludes HIV, the antibodies. It precludes the situation of the virus and transmission by breast feeding.

Under some thinking, people would say, well, we'll let you know whether or not it can be transmitted by breast-feeding, but 30 days later, that's too late. It's already too late.

This is a baby saving bill. It's not merely an identification situation after birth. It's very significant that the fact is that there are tests for the virus. They haven't been mentioned today. It's the PCR test, and it's usually given one month after birth defects if the virus is in the blood, not an antibody, but the virus.

This bill is timely. It's important. It has no reference to any other legislation. It's unanimously supported. There is no known opposition to the bill, and I

believe it should be passed.

ACTING PRESIDENT SPANO: Senator Stavisky.

SENATOR STAVISKY: Mr. President, I'd like to ask Senator Velella if he would yield for a question and then -

ACTING PRESIDENT SPANO: Senator Velella yields.

SENATOR STAVISKY: And then Senator Tully.

Senator Velella, is it your opinion that, if this legislation passes, that it will preclude the likelihood that subsequent legislation will be sought in this session or in -- or shortly thereafter in the form of universal testing for babies to determine whether they are infected with the AIDS virus?

SENATOR VELELLA: Senator, it's my understanding and, Senator Tully, in his giving the names, he could have added my name with those supporting the legislation. I will support this legislation and on its merits it is a good first step, as I said in my opening

remarks. I don't believe it precludes other legislation. No bill on this floor precludes legislation following up or changing or enhancing a bill. That's why we have chapter amendments some time.

SENATOR STAVISKY: Just to continue, Senator Velella. As you know, Senator Velella, your legislation and Assemblywoman Mayersohn's companion bill have had widespread support from the advocates who believe that the child cannot give informed consent, that the baby needs to be protected and universal testing of the baby is the only way that you can deal with what is a human tragedy of enormous proportions.

Do you feel that, in any sense, that the momentum for your legislation will be undercut by the adoption of this bill?

SENATOR VELELLA: No, Senator, I don't and as a matter of fact, I think this legislation has, in some degree, given me an opportunity to provide some impetus for our legislation and will increase the awareness of

the house and the members of the Senate and the Assembly hopefully, that there are some follow up provisions that some members think will strengthen this provision.

I do want to, while I'm on my feet, apologize for misspeaking. I am not as familiar with the terminology as perhaps some of my colleagues. I used the word "virus" rather than "antibody", so I meant to say "antibody".

SENATOR STAVISKY: Thank you. I have no further question of Senator Tully. I think Senator Velella has expressed the position sufficiently.

ACTING PRESIDENT SPANO: Senator Paterson.

SENATOR PATERSON: Will Senator Tully yield for a question?

SENATOR PATERSON: Yes, I will, Mr. President.

ACTING PRESIDENT SPANO: Senator yields.

SENATOR PATERSON: Senator, I think that there are often people who have a

bunch of outrageous ideas who probably profiteer on diseases such as this, and it's outstanding that some of the consumer advocates in this state, certainly the new public advocate of New York, Mark Green when he was consumer protection commissioner, for exposing these people for the charlatans that they are, but at the same time, I was a little disappointed to hear you say that AZT is the only game in town when, in fact, I don't know of a person that ever had -- was diagnosed to have full-blown AIDS or even was diagnosed as having the HIV virus that ever survived after being treated with AZT which is not only a highly toxic drug but actually exacerbates the same virus that it's treating, and so while I think I understood what you were trying to say, I was just going to ask you if you would rephrase it because it certainly promotes a feeling that this is a drug that does anything other than perhaps delay an inevitable circumstance, but in delaying the inevitable circumstance, it has been perpetuated on society to such a degree that it is almost impossible to

discuss any other alternqtive to an extent that, if anyone even suggests one as opposed to the, quote, "only game in town," it then becomes incumbent on these individuals to perhaps have their medical license challenged or, in fact, be exposed themselves as if they are charlatans when, in fact, they are researchers who are trying very hard, as we all are, to find something that will hopefully reverse this deadly illness.

And so I just submit to you that the discussion of AZT is one that has been promoted to a higher level at a point when consumers have been charged outrageous amounts to receive AZT, when a number of pharmaceutical companies have profiteered very immeasurably for a drug that has not yet cured one person and which is -- which is pretty much understood to be something that only influences the T-cell count in the body.

SENATOR TULLY: Thank you, Senator.

Mr. President.

ACTING PRESIDENT SPANO: Senator Tully.

SENATOR TULLY: I stand by the statement that it's the only game in town because I was making reference to the fact that this AZT dramatically reduces transmission of HIV, the virus that causes AIDS, from infected mothers to their newborns.

Now, this is not my statement. This is the statement of Dr. Harold W. Jaffe, an epidemiologist and the top scientist on HIV at the Centers for Disease Control and Prevention in Atlanta. He clearly stated that AZT and the testing of the federal test is the first indication that mother-to-child transmission of HIV can be decreased, if not prevented, and it will provide a real impetus for identifying more HIV-infected women during pregnancies so that they could consider the benefit of AZT treatment to themselves and their children, and that is the impetus of this legislation. Do it early on. Don't do it after it's too late. Do it for medically necessary purposes, period.

SENATOR GOLD: Last section.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the first month following the 90th day after it shall have become a law.

ACTING PRESIDENT SPANO: Call the roll. Senator Gold to explain his vote.

(The Secretary called the roll. )

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

I unquestionably am going to support the bill, Senator Tully, and I also want to take the opportunity to congratulate Senator Velella and Assemblywoman Mayersohn because this is an issue that really is overwhelming. We should be doing things about it, and thank God we have a Nettie Mayersohn and you, Senator Tully and Senator Velella, to work on it.

But I want to say one last

thing. Senator Paterson, I heard every word you said, and I'm glad you're saying it. I really am. I think there are a lot of things being said on both sides which are questionable. I'm not a doctor, and I don't see any doctors around in the room, but there's no doubt in my mind, Senator Paterson, that there are many times in this country where people are killed because that is good for somebody's economics and maybe we'll get to a point in history where that won't happen.

I unquestionably believe that there are things available called alternative medicine and other ideas in the medical profession which are not under any label, that could save lives and which aren't allowed to be processed properly, because it doesn't fit into certain political and financial schemes.

So Senator Padavan -- Paterson, I'm glad you said what you said. I vote for the bill.

ACTING PRESIDENT SPANO: Senator Stavisky to explain his vote.

SENATOR STAVISKY: Mr. President, I rise to explain my vote on the following basis: Informed consent is an excellent concept, but no one can give informed consent for an infant. That infant, once born, has the right to medical care and treatment that any other living human being possesses, and it seems to me that, because of ideology, sometimes selfish ideology, we are failing to consider the ramifications of this tragic disease and the inability of an infant to give informed consent.

What if the mother, after all the counseling, still fails to give that informed consent in behalf of the child in behalf of testing? What then? This legislation goes part of the way, but I could not in good conscience vote for this bill with the feeling that it is the last word by this Legislature on this issue, and I urge Senator Tully and his colleagues on the Health Committee to consider the ramifications of universal and routine testing after birth in addition to the legislation that

we are passing today. The two together will make a package that perhaps will provide some partial remedy to this great tragedy.

I vote in the affirmative.

ACTING PRESIDENT SPANO: Senator Stavisky in the affirmative.

Senator Paterson.

SENATOR PATERSON: Mr. President, I just would like to advise my colleagues that I would say the same thing that Senator Tully said, had I been provided that information, and I think that that is correct, that is what the study said, and Senator Tully is known as an outstanding health care advocate and there have to be some issues that we discuss in this chamber where we rely on the facts that are produced from studies and maybe this is a cynical remark, Senator Tully, but it's interesting to me that nine years after they started using AZT, they finally found a study that said that it does something for -- that somebody can find something positive about it because the drug has been under such criticism,

and finally that criticism is coming to fruition.

I'm not going to accuse anyone of falsifying a study, but what I'm going to say that reality has a way of following perception. People want to believe it so they believe it, so rather than referring you to any documents that I can produce right now to discredit the study, I would just refer you to Hans Christian Anderson who wrote The Emperor's New Clothes, and what I'm saying is very much like what Senator Gold is saying, that the ideas of alternative therapy have been so preempted and so diminished and so discredited that we don't even discuss them.

The fact is that a couple years, a few years ago, the Kenyan government said that they had a cure or a proposal for the HIV virus known as Chemeron, and a number of African American leaders went to Kenya to look into this treatment. The fact is that the treatment really doesn't help anybody that has the HIV virus any more than AZT does, but it became very

popular in the black community to talk about this because it would have been so wonderful had the Kenya government and Kenya researchers come up with a cure that would have helped this virus. But the mistake that many leaders in the African-American community made was because it seemed so wonderful that there had been this proposal they latched onto the cure because it was fashionable and it would have sounded very great if that had been the cure. But meanwhile the medical evidence, time after time, was demonstrating that Chemeron was not a cure for the HIV virus, and it should never be an issue of race. It should never be an issue of class, and those who supported it now wish they hadn't because they got behind something that had not been medically tested.

All I'm saying to my colleagues today is that we have been for so long enduring this drug that still has not cured one person and they finally found one study that an epidemiologist who is of great credential stands behind and all of a sudden now, we may have 15

studies that show that that's not the case, but no one will listen to it because we've already institutionalized it, and what I'm saying is that that's what happened to AZT and DDI in the first place. They became institutionalized because somebody came up with a study that the American Medical Association approved so quickly that it would make your head spin.

So all I'm asking everyone here is to keep your minds open to possible cures and I vote in support of this bill.

ACTING PRESIDENT SPANO: Senator Paterson in the affirmative. Results.

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, would you call Senator Volker, please.

ACTING PRESIDENT SPANO: Senator Volker.

SENATOR VOLKER: Mr. President, I'd like to call a meeting of -- immediate

meeting of the Codes Committee in Room 332 for the purpose of reporting one bill which is a group of extenders that have run out or are about to run out on the 15th of April.

ACTING PRESIDENT SPANO: Immediate meeting of the Codes Committee, Room 332.

Senator Present.

SENATOR PRESENT: Mr. President, can we return to reports of standing committees.

ACTING PRESIDENT SPANO: Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bills directly for third reading:

Senate Bill Number 7671, by Senator Stafford, an act to amend the State Finance Law and the Public Authorities Law, in relation to making technical corrections relating to certain professional contracts.

Also Senate Bill Number -- Senate Bill Number 7682, by the Committee on Rules, an

act making an appropriation for the payment of debt service obligations to the local government.

Senate Bill Number 7681, by the Committee on Rules, an act to provide for payments to municipalities.

Senate Bill Number 7684, by the Committee on Rules, an act making an appropriation for the support of government.

Also Senate Bill Number 7683, by the Committee on Rules, an act making an appropriation for the support of government.

All bills reported directly for third reading.

ACTING PRESIDENT SPANO: Without objection, third reading.

Senator Present.

SENATOR PRESENT: Mr. President, will you call up Calendar 578.

ACTING PRESIDENT SPANO: Secretary will read Calendar 578.

THE SECRETARY: Calendar Number 578, by the Senate Committee on Rules, Senate

Bill Number 7681, an act to provide for payments to municipalities.

SENATOR PRESENT: Mr. President, I understand there's two messages at the desk applying to this bill, and I move we accept them.

ACTING PRESIDENT SPANO: All those in favor of accepting the message, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The message is accepted. Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 50, nays one, Senator Maltese recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Will you call up Calendar 579.

ACTING PRESIDENT SPANO: Secretary will read Calendar 579.

THE SECRETARY: Calendar Number 579, by the Senate Committee on rules, Senate Bill Number 7682, an act making an appropriation for the payment of debt service applications.

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: Mr. President, I understand there's a message of necessity and a message of -- making the appropriation at the desk. I move that we accept them.

ACTING PRESIDENT SPANO: All those in favor of accepting the message?

(Response of "Aye.")

Opposed nay.

(There was no response. )

The message is accepted.

SENATOR PRESENT: Last section.

ACTING PRESIDENT SPANO: Read the

last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we call up Calendar 580, please.

ACTING PRESIDENT SPANO: Secretary will read Calendar 580.

THE SECRETARY: Calendar Number 580, by the Senate Committee on Rules, Senate Bill Number 7683, an act making appropriation for the support of government.

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: Mr. President, I understand there's a message of necessity and a message making the appropriation at the desk.

I move we accept it.

ACTING PRESIDENT SPANO: All those in favor of accepting the message?

(Response of "Aye.")

Those opposed nay.

(There was no response. )

The message is accepted. Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we call up Calendar 581, please.

ACTING PRESIDENT SPANO: Secretary will read Calendar 581.

THE SECRETARY: Calendar Number 581, by the Senate Committee on Rules, Senate

Bill Number 7684, an act making appropriation for the support of government.

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: Mr. President, I move that we accept the message of necessity and the message making the appropriation which is at the desk.

ACTING PRESIDENT SPANO: All those in favor of accepting the message signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The message is accepted. Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill

is passed.

Senator Present.

SENATOR PRESENT: Mr. President, I move that we stand at ease awaiting a report of the Codes Committee.

ACTING PRESIDENT SPANO: Senate will stand at ease.

(The Senate stood at ease from 3:46 p.m. to 4:20 p.m.)

ACTING PRESIDENT SPANO: Senate will come to order. Senator Present.

SENATOR PRESENT: Mr. President, can we return to reports of standing committees.

ACTING PRESIDENT SPANO: Secretary will read reports of standing committees.

THE SECRETARY: Senator Volker, from the Committee on Codes, reports the following bill directly for third reading: Senate Bill Number 7693, by the Committee on Rules, an act to amend Chapter 261 of the Laws of 1987.

ACTING PRESIDENT SPANO: Without objection, third reading.

Senator Present.

SENATOR PRESENT: Mr. President, I understand there's a message of necessity at the desk. I move we accept the message.

ACTING PRESIDENT SPANO: All those in favor of accepting the message?

(Response of "Aye.")

Opposed nay.

(There was no response. )

The message is accepted. Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is -

THE SECRETARY: Excuse me. Ayes 50, nays one, Senator Pataki recorded in the

negative.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

SENATOR PRESENT: Is there any housekeeping or -

ACTING PRESIDENT SPANO: Any housekeeping, motions, resolutions?

SENATOR PRESENT: Desk is clear?

ACTING PRESIDENT SPANO: We're all clear, Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I move that we adjourn until Monday, April 18th, at 3:00 p.m., intervening days to be legislative days. I would also like to advise the members that they are subject to a call of the Majority Leader for session upon 24 hours notice.

ACTING PRESIDENT SPANO: The Senate will stand adjourned until Monday, 3:00 p.m., being subject to call of the Majority Leader on 24 hours notice.

(Whereupon at 4:24 p.m., the

Senate adjourned. )