BUDGET& FINANCE COMMITTEE

Of the

Suffolk County Legislature

A regular meeting of the Budget & Finance Committee was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown,
New York on April 15, 2008.

Members Present:
Legislator Ricardo Montano - Chairman
Legislator Kate Browning - Vice-Chair
Legislator John Kennedy
Legislator Edward P. Romaine
Legislator Lou D'Amaro.
Legislator Thomas Barraga.
Legislator Brian Beedenbender

Also in Attendance:
Presiding Officer William Lindsay - District #8
Legislator Jack Eddington - District #7
Legislator Steven Stern - District #16
George Nolan - Counsel to the Legislature
Robert Martinez - Aide to Legislator Montano
Linda Bay - Aide to Minority Leader Losquadro
Paul Perillie - Aide to Majority Leader Cooper
Lora Gellerstein - Aide to Majority Leader Cooper
Justin Littell - Aide to Legislator D'Amaro
Terrence Pearsall - Chief of Staff to Presiding Officer Lindsay
Kara Hahn - Director of Communications/P.O. Lindsay's Office
Bill Schilling - Aide to Presiding Officer Lindsay.
Michael Cavanagh - Aide to Presiding Officer Lindsay
Debbie Harris - Aide to Legislator Stern
Gail Vizzini - Director/Budget Review Office
Robert Lipp - Deputy Director/Budget Review Office.
Lance Reinheimer - Assistant Director/Budget Review Office
James Morgo - Chief Deputy County Executive of Suffolk County
Allen Kovesdy - Chief Management Analyst/County Executive's Office
Connie Corso - Director/County Executive's Budget Office
Fred Pollert - Deputy County Executive for Finance
Ben Zwirn - Deputy County Executive
Tom Vaughn - County Executive Assistant
Dennis Brown - Bureau Chief/County Attorney's Office
Joseph Sawicki - Suffolk County Comptroller
Christina Copobianco - Chief Deputy Comptroller of Suffolk County
Joan Sikorski - Municipal Finance Administrator/Comptroller's Office
John D'Amico - Executive Director of Accounting/Comptroller's Office
Richard Tortora - President/CEO Capital Markets Advisors
Marcy Block - Capital Markets Advisors/Analyst
Cheryl Felice - President/AME
Lydia Sabasto - Executive Vice-President/AME
Debra Alloncius - Legislative Director/AME
All Other Interested Parties

Minutes Taken & Transcribed By:
Alison Mahoney - Court Stenographer & Kimberly Castiglione

(*The meeting was called to order at 10:03 A.M.*)

(*The following was taken & transcribed by Alison Mahoney

CHAIRMAN MONTANO:
Good morning, everyone. I'm going to ask to you please stand for a Pledge of Allegiance led by Legislator Browning.

Salutation

I'll take a moment of silence for all those that are serving overseas and those that have died defending our country. Please stand.

LEG. BROWNING:
I don't think they can hear you.

CHAIRMAN MONTANO:
I'm just going to take a moment of silence on behalf of those that are serving overseas and those that have served our country.

Moment of Silence Observed

Thank you. Good morning, everyone. I see we have a large audience today and we're going to have a number of speakers, so I'm going to get right into the agenda with the correspondence.

I have two pieces of correspondence, I just want to read them into the record. One is dated March 19th, 2008, it's addressed to me from the Presiding Officer, it says, "Dear Rick, please let this letter serve as notification that I am increasing the membership of the Budget & Finance Committee to seven Legislators. As we have become further aware of the severe revenue shortfall Suffolk County will be facing in Fiscal Year 2009, I believe it would benefit the taxpayers of Suffolk to have additional Legislators participating on the committee. In the months ahead, the Budget & Finance Committee will be undertaking the examination of various proposal, plans and resolutions aimed at addressing a projected 130 to $100 million budget gap. Effective today, Legislators Brian Beedenbender and Thomas Barraga are appointed as members of the Budget & Finance Committee."

Further, April 15th, today's date, I received a letter from Mr. Lindsay; "Dear Legislator Montano, please be advised that because of conflicting schedules, Legislator Jon Cooper has requested that he be removed as a member of the Budget & Finance Committee. As of this date I'm assigning Legislator Lou D'Amaro as his replacement. Legislator Kate Browning will now serve as Vice-Chairperson. If you have any questions, please feel free to contact me."

(*Legislator Kennedy entered the meeting at 10:05 A.M.*)

Good morning, Legislator Kennedy. The third piece of correspondence I'm not going to read, it's a memorandum from Dr. Pippins dated April 2nd regarding Resolution 1307-2008; I've passed that out to all the members of the committee, we can discuss that later. It deals with the issue of the Early Retirement Incentive Program that the County Executive's Office is proposing and certain modifications that are requested, we'll take that up in committee.

And with that, I'm going to get into the -- I'm going to ask the Suffolk County Comptroller, Joseph Sawicki, and members of his staff to please come forward. They're going to be making a presentation providing an overview of tax securitization revenues and an analysis of the proposal 1307-2008. Mr. Comptroller, good morning. Are you ready?

COMPTROLLER SAWICKI:
I am ready, sir.

CHAIRMAN MONTANO:
Mr. Comptroller, would you introduce yourself, of course, and the members of your group there and then the floor is yours.

COMPTROLLER SAWICKI:
Certainly, Chairman Montano. And thank you for the opportunity to appear before your Budget & Finance Committee. To my right is Joan Sikorski, Municipal Finance Administrator; and to my left is our -- the County's, Suffolk County's Financial Advisor, Richard Tortora, President and CEO of Capital Markets Advisor; to his left is Marcy Block who is one of his analysts, formerly with Moody's and has been with Capital Markets for the last, how many years, Rich?

MR. TORTORA:
Five years.

COMPTROLLER SAWICKI:
Five years. And in the audience, if we need further staff, I have John D'Amico who is Executive Director of Accounting; and my Chief Deputy Comptroller, Christina Capobianco.

But first, Mr. Chairman, I believe you wanted to -- wanted us to address basically the tobacco securitization options by the County.

CHAIRMAN MONTANO:
Yes, that's correct.

COMPTROLLER SAWICKI:
And as many of us have discussed over the months, tobacco has been -- tobacco settlement issues and securitization have been at the forefront of many other counties and many other municipalities across the country for many years now. The real expert in this area who I'd like to turn the floor over to would be Mr. Tortora to give an overview and to basically advise you where we are as a County, where Suffolk sits with tobacco, and even go one step further and get into tax lien, bulk tax lien sales and/or securitization as well. So I'd kind of like to lay all the options on the table for you as this Legislative body to consider as you go forward with 1307.

CHAIRMAN MONTANO:
Thank you.

COMPTROLLER SAWICKI:
Mr. Tortora?

MR. TORTORA:
Thank you. Good morning.

CHAIRMAN MONTANO:
Good morning, Richard.

MR. TORTORA:
I'll start by apologizing, I have laryngitis when the seasons change so I might not hold up very well.

What I was hoping to do this morning is maybe give an overview of the tobacco bond business, if you will, which might be fundamental for some of you but perhaps for others it might be useful. So with your consent, that's the way I'd like to get started.

CHAIRMAN MONTANO:
Go ahead.

MR. TORTORA:
Okay, thank you. As you know, I'm sure that the under -- Master Settlement Agreement signed in 1998, entered into the between Attorneys General for 46 states and a number of US territories, there is a revenue stream that comes to these 46 states from the signatories to this Master Settlement Agreement, the major tobacco producing companies in the United States. That revenue stream is supposed to exist in perpetuity. Presently, the County receives approximately $23 million a year under that revenue stream. The revenue stream is affected by the amount of tobacco products shipped in the United States by the signatories to the agreement. So in the event that the amount of tobacco products declines, as it has over the last ten years rather significantly, or that the tobacco products being shipped are being shipped by firms other than the signatories to the Master Settlement Agreement, that revenue stream can be affected.

In New York State and the State of California, while the State receives the revenue payment April 15th, today, those two states, they distribute the revenue stream to the counties on primarily a population-based formula. So this revenue stream has existed since 1998. We know that when tobacco -- the tobacco revenue stream started there was a lot of concern about the strength of the revenue stream. Since the tobacco bonds issued against the revenue stream are issued not based on the underlying credit strength of the jurisdiction, say Suffolk County at a "AA", but rather on the underlying credit strength of the corporations, Phillip Morris, Reynolds, etcetera; tobacco bonds are generally rated in the triple B category.

One of the things that we've seen since tobacco securitization began, the first two deals done were done by the City of New York and by Nassau County; they did deals in the fall of 1999. There's primarily two reasons why you would securitize the tobacco revenue stream; the first reason is you need a slug of cash. Rather than take this money over time, you would identify the revenue stream say for the next 20, 25 years, you would present value that revenue stream, because obviously a dollar that you're going to receive a year from now isn't worth a dollar today and a dollar you receive 20 years from now is worth certainly a lot less than a dollar you receive today. So what was happening initially, the investment banks came up with a structure and the structure involved creating a bankruptcy remote entity that the County would sell the revenue stream to, that bankruptcy remote entity, they call it an SPE or a local development corporation perhaps, would issue the bonds and the proceeds from the sale of the bonds would provide the revenues to the County; that would be the purchase price.

I should probably get pack to one basic point regarding the Master Settlement Agreement. The primary motivation for the tobacco companies and the Attorneys General to enter into the Master Settlement Agreement, the tobacco companies wanted to stop being inundated by lawsuits that had been started by the local jurisdictions, the states and the territories. So in exchange for working out this settlement, the states and the other jurisdictions agreed that they would not sue.

Now, I mentioned originally there were 46 states signed, so obviously four did not. One of the big issues in the securitization, tobacco securitization is litigation risk. So over the last ten years, while the tobacco business has matured -- and we've had some jurisdictions that have issued tobacco bonds two and three times, some have refunded their bonds already -- the one thing that no one can control is the litigation risk that arises from time to time. As recently as a week or two ago there was a case that was a class action suit based on individuals that had been consuming light cigarettes and the class action suit, the concept was -- were these individuals consuming light cigarettes because they thought it was a more healthy alternative than traditional tobacco, that case never got classified as a class action and was dismissed.

I just mention that because the pricing of tobacco bonds, while the industry has matured and the pricing is closer today to say traditional pricing -- when we price bonds for the County, we price off a scale called the Municipal Market Data General Obligation Scale and that's a service that we subscribe to where every day we get a list of interest rate scales based on other deals done around the country, it shows the credit rating and the interest rate scale. Tobacco bonds we typically look how they price off the Revenue Bond Index. Initially tobacco bonds were pricing maybe close to a hundred basis points over the Revenue Bond Index; that spread to the Revenue Bond Index narrowed to as little as 30 or 40 basis points. And there were times over the last several years when the litigation risk was very high that you could no longer really access the market and sell tobacco bonds based purely on the revenue stream generated under the Master Settlement Agreement. So as a result, some jurisdictions back-stopped that revenue stream with perhaps a general obligation pledge or a pledge of other revenues. As a matter of fact, as recently as two or three weeks ago, the State of New York issued tobacco bonds and they back-stopped them and they made them what they call an appropriation debt. So in the event that revenue stream from tobacco dried up, the State would back-stop the payment of the bonds with an additional revenue stream.

Getting into the structure of tobacco bonds. The County right now has credit ratings with Moody's, Standard & Poors and Fitch Ratings, and you're in the "AA" category which you worked long and hard to achieve and that's something that everyone at this table, I'm sure all of you guard jealously. We want to protect the County's very high credit rating, especially in the economic climate that we find ourselves in where five of the seven formerly "AAA" rated insurance companies are no longer "AAA", so our underlying credit rating is more important than ever.

The number of differences in tobacco bonds versus the bonds that you're used to dealing with, general obligation debt. Since tobacco bonds are backed almost exclusively, in most cases exclusively by the receipt of the revenues under the Master Settlement Agreement, we said that the ratings are based on the underlying ratings of the tobacco companies. We also know that in tobacco bonds -- and while we generally do serial bonds when we issue debt for the County, tobacco bonds are structured with term bonds that might mature 10, 15, 20 years out. We know that tobacco bonds are only rated by two of the rating agencies, Standard & Poors and Fitch. We also know that the structure that's employed when issuing tobacco bonds is very different than what we are typically seeing in the GO, General Obligation Bond Market, in that the tobacco bonds employ what's called a turbo structure where on the official statement, the offering document for this transaction, you'll see two different maturity schedules, you'll see at a stated maturity schedule that shows how the bonds will mature if the revenues come in as projected or as sized in the transaction, and then you'll see a turbo structure which has the bonds maturing much more quickly. In the event that the revenues come in annually above the amount that's needed for debt service that year, the excess revenues are used to accelerate the repayment of the bonds.

Tobacco bonds are sold usually at a fixed rate, they're not insured. Our issues are the County's issues generally are insured, they, too, are sold at a fixed rate. Some jurisdictions, including New York City, as I said a couple of weeks ago, sell variable rate bonds. The interesting distinction -- excuse me, the New York State deal that sold a couple of weeks ago is because they didn't rely exclusively on the tobacco bond revenue and they back-stopped the deal with another credit -- with the State's credit, they were able to sell bonds at significantly lower rates -- excuse me -- at significantly lower rates then they would have received had they been in the market solely based on the underlying credit of the tobacco companies, and the distinction is something we really need to point out. While right now Suffolk County were in the market for say a 20 year issue, we might expect to issue your debt at a cost of approximately 4%, whereas the tobacco bonds, they maturities certainly are beyond 20 years, might be issued at today's market at interest rates as low as perhaps five and a quarter, as high as six-and-a-half percent, so considerably higher; again, based on the risk, the underlying credit rating, the structure, etcetera.

Let me see what else. We talked a little bit about the issues that have been done to date in New York State. To date, approximately two-thirds of all the counties in New York State have opted to securitize their tobacco, tobacco revenues. The larger jurisdictions, the larger counties such as Erie, Westchester, Nassau, they've gone out on their own in some instances, in other instances they joined the New York State Association of Counties Tobacco Pool that was created by the State Association of Counties and the idea there was since a lot of the smaller counties in the State, it would be ineffective or inefficient of them to securitize their tobacco revenue stream because they didn't have enough money coming in. The cost of doing the transaction which is substantial would eat up a lot of the saving, so as a result they came up with a structure where six or eight or as many as perhaps a dozen different counties would join together, issue through the tobacco pool and then you capture economies of scale, etcetera. The county pool has been in the market on I believe four separate occasions starting in November, 2000, I think the most recent transaction they did was in the fall of 2005.

We want to now kind of put this in perspective, how it relates to Suffolk County. As we said earlier, we know what the revenue stream to the County is because it's projected under the MSA based on how much the State receives, what percentage of the States revenues go to Suffolk County. So we know what that revenue stream is. We've spoken to a number of bankers to prepare for this meeting. We've also spoken to the County I think probably about a half dozen times in front of this body and your predecessors, etcetera, with the County Exec's representatives, with the Comptroller's representatives over the last ten years; I have a stack of memos in my office. If indeed the County opted to securitize its tobacco, it could get proceeds in excess of $200 million.

What you probably -- we understand that the County has identified a potential shortfall starting in the '09 Fiscal Year and perhaps a couple of the out years as well. If indeed you needed to bring revenues to the table, certainly tobacco is an option that you could employ. One of the things that we've always said about Suffolk County when we've met with the rating agencies over the years, while Suffolk County has strong management, has good debt practices, has good and growing economic and demographic factors, we said they also -- the County has a couple of aces up its sleeve. In the event the County ever needed to get a large amount of money in hand for a particular project, let's say it was the jail or if there was a shortfall as anticipated now, you had a couple of options, one of which was always tobacco securitization, the other one was doing something with the County's tax liens.

Presently the County issues what they call a DTAN every fall and that's a Tax Anticipation Note issued in anticipation of the receipt of delinquent taxes from the five prior years. So tobacco certainly is a way of getting funding that you're looking for, tax lien securitization or bulk tax lien sale is certainly another way; there are different costs associated with the various financing techniques to get you this funding. But one thing we certainly want to underscore, we've always been saying to the people at the rating agencies and to the bankers, etcetera, that so far Suffolk County has looked really smart because while two-thirds of the other counties in the State, including all of the other large counties, have opted to securitize, and obviously when you securitize you're selling that revenue stream at a discount so you're not getting dollar for dollar when you sell future revenues.
So far, for the last ten years, unlike most of the other counties in the State, Suffolk has gotten every dollar that's come to it under the Master Settlement Agreement through the State of New York.

That being said, I suspect the primary reason why a lot of jurisdictions have opted to securitize, and I would guess that most of the states, the 46 states have done securitizations at this point -- I don't know that for a fact but I suspect that's the case -- perhaps the primary reason they've opted to do that is to transfer the risk that those tobacco revenues are going to either be reduced or dry up entirely at some point in the future. So in addition to getting you funding that obviously you need at this point, the reason why tobacco is something to be strongly considered is at this point, perhaps the time has come for the County to shift away at the risk that these revenues might dry up, from themselves to investors. And of course, the investors assume this risk knowing exactly what the risk is and they are rewarded with a higher than market tax exempt break.

I think that's it for my voice for now, excuse me. I'd be happy to answer any questions, that was just an overview you wanted to start with.

CHAIRMAN MONTANO:
I'm sure we're going to have some questions. I just have a couple and then we'll open it up to the committee members. You mentioned the revenue stream under the MSA from 1998 is to provide revenues in perpetuity?

MR. TORTORA:
That's correct.

CHAIRMAN MONTANO:
And we receive about 23 million a year, or we've been receiving about 23 million a year?

MR. TORTORA:
That number grows every year.

CHAIRMAN MONTANO:
Now, is that number likely to grow in perpetuity or you have no way of knowing that?

MR. TORTORA:
It's a formula and so I believe it grows -- it's tied into CPI, the Consumer Price Index, I think it might be the greater of 3% or the Consumer Price Index, so it is scheduled to grow every year.

CHAIRMAN MONTANO:
Every year. Now, if we securitize the tobacco money, what effect does that have on the receipt of future monies; would that not limit or eliminate future revenues?

MR. TORTORA:
Sure, it would eliminate your receipt of those future monies. So for example, when we spoke over the years that we've been speaking to the County about securitization, we know that the County has a multiyear budget model, so we always suggested that you probably wouldn't want to securitize certainly the current year and the next couple of years because you wouldn't want to disrupt the budget model. So if indeed you started to secure maybe at a point three, four, five years out and you securitized the revenues, let's say, starting in the year 2012 out through say 30 years later, 35 years later, you securitize only as many years as you need to in this case if you're looking just to come up with a dollar amount, you securitize only as many years as you need to come up with the dollar amount that you're seeking. If indeed, let's say, you said, "We want $25 million each of the next five fiscal years," we might come up with an analysis, as we did in-house. Once you borrow these tobacco proceeds, you would then invest them probably in Treasury Securities such that each year the amount of money that you needed for the budget will become available as these Treasury Securities matured. So you might need to borrow 150 -- you might need to have proceeds in hand to invest on July 1 of this year, $160 million such that you'd have $25 million each of the next five years.

But to answer your question, what you're giving up, of course, if you securitize years 2012 to 2035, you would sell the right to receive that revenue stream to this SPE, the special corporation that's created, this bankruptcy remote corporation, then they would receive those revenues for all of those years. They would use those revenues to repay the tobacco bonds that they issued to purchase the revenue stream.

CHAIRMAN MONTANO:
So that I understand this, then we would have a gap, under your scenario we would have a gap from let's say 2013 to 2035 or 37, whatever year you use, and then we would pick up additional revenues thereafter?

MR. TORTORA:

That's correct.

CHAIRMAN MONTANO:
We would go back to our original receipts under the settlement agreement.

MR. TORTORA:
That's correct.

CHAIRMAN MONTANO:
Okay.

MR. TORTORA:
Also, something that's been done by some jurisdictions, rather than securitize the entire revenue stream, they'll only securitize a portion of it.

CHAIRMAN MONTANO:
A portion of it.

MR. TORTORA:
Half of it, two-thirds of it. The portion that is not securitized, you would continue to receive business as usual.

CHAIRMAN MONTANO:
On a prorated basis?

MR. TORTORA:
You would receive it -- no, you -- well, let's say we said simple math, let's say if it was a $20 million revenue stream and you said we're only going to securitize 75%, so 15 million would immediately go to the local development corp to back -- to pay back the bonds, but the five million would continue to come to you on a dollar-for-dollar basis as it always has in the past.

CHAIRMAN MONTANO:
Okay. Just moving along quickly, you said that the costs of doing the transaction are substantial; do you have any idea dollar-wise in terms of what the cost is?

MR. TORTORA:
You might expect the cost --

CHAIRMAN MONTANO:
Is it a percentage?

MR. TORTORA:
Perhaps. The costs have certainly come down over the years. Initially, because this was a whole new world and there were all different types of disciplines brought to the table, you didn't have just bond attorneys, general obligation bond attorneys and revenue bond attorneys, you had structured financed and asset-backed bond attorneys, real estate attorneys. When you went to the rating agencies, they would bring in their asset-back group, etcetera. But to answer your question, perhaps as a rule of thumb you might expect, if you were securitizing tobacco, perhaps 1% of the amount, the par amount of the issue might go to pay cost of issuance.

CHAIRMAN MONTANO:
Okay. And with respect, you said that the -- of course, this dollar that we receive, this 25, 23 million would come at a discount, some kind of discount rate; do you have an idea of what the discount would be, is it 30 cents on a dollar, less, higher?

MR. TORTORA:
What happens is, of course, the further out you go, the dollar -- the value diminishes as you go

further out. So if we're securitizing tobacco receipts that are going to be received in 2010, we'll get more of that money than for the receipt that we securitize in 11 and 12, etcetera. What we do typically is we present value that revenue stream based on what the cost of the borrowing is, so if we borrow at 6% we'll present value that future revenue stream back at 6% to come up with the amount of value that comes to us at closing.

COMPTROLLER SAWICKI:
You can't let him stop now.

MR. TORTORA:
So does that answer your question?

CHAIRMAN MONTANO:
Yes. I'm actually -- I may have some more questions, but I want to move it along. Are there any committee members? Legislator Barraga, Kennedy, Romaine; we'll have the whole show.

LEG. BARRAGA:
Just one or two questions with reference to a partial securitization. Because certainly, as I take a look at the numbers given by one house, they indicate that if we do a hundred percent securitization on tobacco, certainly you had that influx of cash that you're talking about to close a potential deficit and for the next five years you've got 23, 24 million, but then after that through 2037 the well is dry, there's no future revenues coming in, not to the County. But on a partial, say it's 75%, you still get that initial influx of cash, it may be a little less, five years of revenues, but after that there's a steady revenue stream through 2037 of about $234 million, about eight or nine million coming in to the County every year. What's the better approach? I mean, if I do -- if we 75% securitization, how much, if you can estimate, would the County receive up-front to close the potential deficit?

COMPTROLLER SAWICKI:
If indeed -- again, it depends on what years you're securitizing. What has happened over the years is the market has become more and more comfortable with tobacco securitization. So as a result, the initial deals that were done by New York City and Nassau County only securitized out perhaps till 2045. As people got more comfortable with the transaction, with the passage of time, they started securitizing out though 2050, 2055 and now they'll securitize as far out as 2060.

As I said earlier, the approach, if you're motivated to shift the risk, you'd make a very good argument to sell it all to securitize the full revenue stream at some point in the future, and of course that will get you the biggest slug of money today. If you are somewhat comfortable with the risk because you've done very well for the last ten years, you would do a partial securitization, I would think. That part that is not securitized you receive business as usual. Let's say you securitize 20 years, at the end of 20 years, the bonds are paid off, if indeed they're all paid off, then the revenue stream starts up again to you. As I said earlier, depending on how much proceeds you need, you can back into that number by securitizing more years, less years, etcetera.

LEG. BARRAGA:
Any idea of what the differential would be in term of the up-front cash between doing a hundred percent versus 75%?

MR. TORTORA:
Not to be glib, it would be 25% less, of course.

LEG. BARRAGA:
Well, I mean, what are we talking -- any idea on figures?

MR. TORTORA:
We know -- we've had some of the bankers run numbers for us, and here they are. We understand that the gross proceeds to the County, if you securitize 75% starting in 2013, would be

approximately $204 million. If you securitize about half the revenue stream, 50% starting in 2013, your proceeds would be approximately $121 million. Now, it's important to note the interest rate at which the debt is issued is very important because the interest rate at which it's issued is the interest rate at which we discount back, and we know interest rates have been very volatile. Some bankers that we spoke to -- we spoke to -- something important to note. Unlike the traditional bond market that we're generally in with the County, there's only a small handful of bankers that have the expertise to do tobacco bonds and they are, in no specific order, First Albany, CitiGroup, Meryl Lynch, UBS, formerly Paine Webber. Bear Sterns had been a very big player in tobacco, but with all their tumult in recent weeks, we kind of take them off the table. So different bankers have different ways of structuring these bonds and, to an extent, they also have different interest rates that they think they can sell the bonds at. Of course, we're interested in selling the bonds at the lowest interest rate we can because that will result in the greatest amount of proceeds to the County.

LEG. BARRAGA:
Okay, let me follow that comment up with reference to selling the bonds at the lowest interest rate. You mentioned the State of New York did a recent securitization and they back up the securitization with other bonds that they issued.

MR. TORTORA:
Not with other bonds, with other revenue streams, like they might have -- and I don't know exactly what they used. They could back it up with their sales tax receipts or they could back it up with their general obligation pledge which would be the best thing to do.

LEG. BARRAGA:
And as a result they get a lower interest rate.

MR. TORTORA:
Significantly lower interest rates.

LEG. BARRAGA:
Can the County do that?

MR. TORTORA:
You could. You know what, let me back-stop; I would defer to your Counsel, but it's been done elsewhere, I suspect you could.

LEG. BARRAGA:
It's been done elsewhere at the County level?

MR. TORTORA:
I'm not certain of that. I'm not certain, but I can look into that and get back to you. It's certainly been done in other states, I know California did it, I believe Ohio did it. Erie County might have done it, but I'm not certain, but we can find out certainly. Thank you.

LEG. BARRAGA:
All right, thank you.

CHAIRMAN MONTANO:
Legislator Kennedy.

LEG. KENNEDY:
Thank you. Just to go a little bit further to understand and talk a little bit about the risk associated with this and the motivation. And you did mention when you first spoke that you're going to speak to us a little bit about securitizing tax liens as well?

MR. TORTORA:

That's correct.

LEG. KENNEDY:
Okay, good. We receive 23 million per year now under New York State's share under the MSA, and that's roughly 24, 25% of the total proceeds that come to the State of New York?

MR. TORTORA:
No, I don't think that's correct. It's primarily distributed to you on a per capita basis, so I believe the County represents 3.7, 3.4% of the State's population; accordingly, you get your distribution primarily based on a ratio of what your population is to the total State population. Obviously New York City gets the largest part of the revenue stream. The State keeps some, the city gets the next largest share, Suffolk County is next in line because of your population.

LEG. KENNEDY:
Okay. And it's principal plus either a 3% or CPI growth per year?

MR. TORTORA:
The revenue stream is adjusted annually based on the prior year's CPI, or that 3% CPI formula.

LEG. KENNEDY:
If you looked at that -- the do-nothing position, if you looked at that and you spun it out over the same time period that you're contemplating now, how much would that be in the aggregate?

MR. TORTORA:
Sure. If we looked at revenue stream -- if you didn't touch the revenue stream and you left it as it is, for the years 2008 through and including 2058 the revenue stream is approximately $446 million.

LEG. KENNEDY:
So the do-nothing is 446 and we're contemplating taking 200 -- if we were to securitize a hundred percent we would be looking at how much?

MR. TORTORA:
Again, the scenario we're looking at is you probably wouldn't touch the next say four or five years --

LEG. KENNEDY:
Okay.

MR. TORTORA:
That in itself would be about 125 million that you'd have. Then if you securitize perhaps the 30 years following, 25 to 30 years following, then you would get this approximately $200 million in proceeds.

LEG. KENNEDY:
So if we were going to go with a simple model, then we would be foregoing about 150 million worth of revenue?

MR. TORTORA:
Perhaps. But again, as we said, if the -- depending on the structure, depending on the interest rate, if those bonds are paid off more quickly then you would go back to receiving the revenue stream as you had been originally before you securitized, whatever is left. And again, as Mr. Montano asked before, the revenue stream is supposed to exist in perpetuity. A lot of people certainly think that, you know, will these signatories to the Master Settlement Agreement, will they be the same players with the same market share in the future that they were when they signed and that they are now? Those are the kind of things that could effect the revenue stream, in addition to consumption.

LEG. KENNEDY:
Admittedly, of course. And as a matter of fact, that's the other -- in addition to having a present need to advance a portion of cash for us on a municipal side, let's talk a little bit about the risk. In the ten years that we have had so far since the MSA has been adopted, have any of the major players had any kind of significant diminishment; has that revenue stream forfeited?

MR. TORTORA:
There has been change in market share, but I believe that the revenue stream has been pretty much as was anticipated when the MSA was originally signed.

LEG. KENNEDY:
Right, Philip Morris and {Ligid} and Brown are all very much still viable, all profit making entities and all very much in the market.

MR. TORTORA:
That's correct. I do believe there was a statistic that I saw as recently as a week ago, I believe that consumption of tobacco products in the U.S. declined about 10% since the MSA was originally signed. Now, I don't think it's anticipated that it will continue to decline. One of the things that -- one of the services that you would employ in conjunction with the tobacco financing, you would get a report from a company called Global Insight and they are the expert in projecting what -- you know, the history of tobacco consumption and what they think it's going to be going into the future during the life of this transaction and you pay them a very nice fee for their projection and that becomes part of your tobacco offering. And they might give you kind of a sensitivity analysis, if it declined 2% a year, if it declined 3% a year, they want to kind of shock-test the revenue stream, under which scenarios would the revenue stream be in trouble, and that all goes into play when you get -- when this issue is rated, when it's structured, etcetera.

LEG. KENNEDY:
Right. Well, theoretically this funding was supposed to drive consumption down anyhow; unfortunately that doesn't seem to be occurring.

MR. TORTORA:
No, it hasn't.

LEG. KENNEDY:
All right, I'll yield.

MR. TORTORA:
Thank you.

CHAIRMAN MONTANO:
Legislator Romaine.

LEG. ROMAINE:
There is a proposal now to securitize tobacco, the settlement from I think it's 2012, 2013 out to 2035. In other words, we would not securitize the current years that we're in now, we'd securitize the years in which the current County Executive would be out of office.. since we're getting $23 million a year, would that not create a structural deficit for his successors?

MR. TORTORA:
If right now you're counting on and you have been receiving $23 million a year and you did opt to securitize down the road, and obviously you'd get a slug of money that you would use, I imagine, over a period of several years, once that money is gone, obviously the tobacco revenue stream is gone for a number of years into the future.

LEG. ROMAINE:

So you're, in essence, creating a structural deficit unless you don't take that money as a one-slug situation and, as you say, invest in U.S. Treasuries or other things so that you have a continuing alternate stream of revenue.

My concern as a Legislator is I don't want to vote for a settlement now that will create a structural deficit for this County when I leave office and certainly when the County Executive leaves office for his predecessors; I don't want to make an easy choice now to stick my future successor Legislators and Executives with structural deficits in this County. So I'm concerned about that and I raise that publicly for the record because any plan that any local development corporation would develop would have to address the out-years and how -- how much money we're going to take up-front, how that money is going to be used, whether we're going to reinvest that money and create other streams of revenue or whether we're going to create structural deficits. Because although people say we have a structural deficit now, I know we ended the year, according to the Comptroller, with a $177 million surplus, I know that for the first quarter of 2008 we had a growth in sales tax revenues of 3.8%. So I just want to make sure that the numbers are right.

The other thing I have a concern about is these proceeds that we would get from securitizing the tobacco settlement, can they be used for operating expenses? And I'll ask that to Joe or yourself.

MR. TORTORA:
That's a very important question. The way you use the proceeds affects, potentially affects the tax status of the proceeds.

LEG. ROMAINE:
Right.

MR. TORTORA:
So for example, initially what was envisioned when the early tobacco securitizations were done by the states and by the counties, there was always a portion of the proceeds were going towards programs to fund -- programs that would encourage people to stop smoking, consuming tobacco products; I think that's still the case in a lot of the financing we've done. Our firm has served as financial advisor on six different transactions for Monroe County, Rockland County, Ulster County. What I understand is envisioned in Suffolk County for those proceeds is that once the money came in, it would be used to defease existing outstanding debt of the County. In dollar amounts --

LEG. ROMAINE:
Let me emphasize that again. These monies, therefore, can only be used to pay off debt, they cannot be used for operating expenses unless we are going to treat them differently and there's a penalty for doing that.

MR. TORTORA:
The answer to that question, they can -- as the tobacco business, if you will, matured over time, some jurisdictions that needed funding for ongoing operating expenses, including Nassau County and including Erie County and later Monroe County, they did indeed use them to fund operating expenses.

LEG. ROMAINE:
Is there a penalty for doing so?

MR. TORTORA:
And that was deemed permissible. The penalty, if you will, is probably the credit implications. My associate Marcy Block, who was formerly with Moody's Investor Service, was going to address those issues, because as I said early on, one of the things that we're always concerned about about the County is protecting those very hard-fought for "AA" ratings that you have with each of the three rating agencies. So what I'd like to do, if that's all right with you, is pass the mike to Marcy Block

and have her speak about credit implications

LEG. ROMAINE:
Absolutely. And as you're passing the mike I'll just say, my biggest concern is that we securitize the debt, however we do that, and then we start using the debt for operating expenses because people are talking about an operating deficit here in Suffolk County that could be addressed with this. And if we do that, that has credit implications that might affect our credit ratings and that's a concern of mine, so I'll let your colleague address that.

MS. BLOCK:
Good morning. I will respond to that question, that's probably the easiest way for me to do this is, you know, if you want to raise your questions, I'm happy to give you answers.

What I can tell you is that the tobacco bonds have been around for a very long time, which Richard has indicated, and the rating agencies are very familiar with them, how they approach them, how they're rated, it's something that they're very comfortable with. And as they have said in sort of blanket statements, there's no rating penalty for issuing a tobacco bond. A lot of the questions that they raise are some of the questions that you've raised this morning, you know, what are the proceeds being used for. So that's generally how they start out as they're doing the analysis of the municipality that is issuing the bonds, what are the proceeds used for to make sure that they understand what they are being used for and that philosophy has changed over time.

Initially I was still at Moody's when tobacco bonds first started being issued and it was very clear they were being used for repayment of debt, for capital projects, for health related programs and that has slowly changed over time and some municipalities have used the proceeds for operations.

What you do find, though, is that it is the lower rated municipalities, those that are experiencing significant fiscal stress, have large accumulated fund deficits, they are the ones that are using these monies for operations. I wouldn't say that necessarily that there's been penalties against them for specifically using this money for operations, because sort of the next step that the rating agencies go through is, "Okay, you've received this slug of money, you're using it for operations. What are you going to do next year?" And that's really where you'll see the rating implications come in, you might see some downgrades for municipalities because if there's not a clear answer as to how the structural deficits in the following year or years out from there, how that's going to be filled, that's where you can run into your problems with some rating downgrades.

LEG. ROMAINE:
So to sum up, there could be a rating problem for a municipality that uses this for operating expenses, particularly as a one-shot revenue because that could affect the credit rating.

MS. BLOCK:
If there is not a multi-year plan as to how that revenue is going to be filled in.

LEG. ROMAINE:
My last question is kind of a statement which has -- I would appreciate an answer. But originally, when we got the $23 million, when other counties received money from the tobacco settlement, wasn't it to have their various departments of health begin tobacco cessation programs, tobacco education programs; wasn't that the stated purpose for this? I mean, we seem to get away from this because there's a pot of money here and we want to raid that pot of money, for whatever purpose, but we forget the original purpose was actually to help people stop smoking, to help people recover from tobacco.

Applause

And I just can't understand for the life of me why as a County we've walked away from that responsibility. And by the way, even without securitizing tobacco, we have walked away from that responsibility; we give less and less and less to tobacco education and cessation programs each and every year. We forgot what the original purpose was and now we're just looking at a pot of money. And it's not enough that we're getting $23 million a year, we want to raid the out-years and take that and we may use that as a one-shot revenue which may effect our credit rating; we may use that for a whole set of purposes that may or may not be financially conducive to the long-term economic health. Because as a Legislator we have two goals, not only focus on the short-term, and although people say we have -- you know, we have economic problems, and I have no doubt that with the economy hurting we do, but we did run a surplus that was even 30 million plus more than we anticipated and we are having sales tax revenues for the first quarter at 3.8% which is actually more than I think last year.

So there are statistics and then there are statistics. My concern is that if we're going to secure this debt that it be done wisely, that we don't create structural deficits in the future, that it doesn't affect our credit rating, we don't use it as one-shot revenues and we don't forget the purpose of this money which was for tobacco education.
Thank you very much.

Applause

CHAIRMAN MONTANO:
Next is -- yeah, we're going to move on, but I just wanted to follow-up very quickly. Can you hear me? I thought the question started with the tax implications of securitization and we somehow moved to the credit rating. I don't think I got an answer with respect to what tax consequences, if any, apply if you use the money that you receive from the tobacco settlement or the securitization for operating costs; are there tax implications or is it strictly rating implications?

MR. TORTORA:
Generally speaking there are not.

CHAIRMAN MONTANO:
Okay.

MR. TORTORA:
If you issue -- if you use the proceeds for either of those purposes --

CHAIRMAN MONTANO:
You're okay.

MR. TORTORA:
-- it's still tax exempt

CHAIRMAN MONTANO:
Okay. Moving along, Legislator D'Amaro had some questions.

LEG. D'AMARO:
Okay, thank you. Good morning. Thank you for coming today. Just a -- first a point of clarification. You had given us some numbers earlier in response to Legislator Barraga was talking about a partial securitization as opposed to a total and you had mentioned 204 million at 75% starting in 2013, but what was the outside date on that figure?

MR. TORTORA:
In terms of how long the revenue --

LEG. D'AMARO:
How long was the stream proposed to be securitized for that number? And the same for the 50% figure of 120 million that you gave.

MR. TORTORA:
I believe it was through 2027.

LEG. D'AMARO:
2027.

MR. TORTORA:
That doesn't seem like enough; let me just check.

CHAIRMAN MONTANO:
To 35, 2035?

MR. TORTORA:
2045 I'm being --

LEG. KENNEDY:
Forty-five.

CHAIRMAN MONTANO:
2045?

MR. TORTORA:
Correct.

LEG. D'AMARO:
2045 for both figures. And the 220 million at 100% securitization starting 2013 would also be to 2045?

MR. TORTORA:
I believe so. And again, these are numbers run by one of the investment banks, so we haven't independently confirmed their numbers, but I believe those are the assumptions that they made.

And again, as stated previously, while they would be securitizing -- this is a revenue deal, when you issue revenue bonds there has to be a coverage ratio. So for every dollar in debt service that you're scheduled to pay, you're expected to have revenues as much as $1.20 to cover that one dollar of debt service that you have to make. So as a result, if we have a structure where we have say $20 million in debt service due, we would probably have about $24 million available to pay that debt service. The excess dollars, if indeed they came in above what's needed, would be used to accelerate the repayment of the debt. So while we're pledging revenues, say, through 2037 or 2045, in actuality the expectation is that you wouldn't need all of those revenues.

LEG. D'AMARO:
That's because the revenue stream is growing or projected to grow over time, so you anticipate an excess increasing over time to more quickly pay down the principal, I would guess.

MR. TORTORA:
That's certainly true, sure.

LEG. D'AMARO:
So the 2045 is your outside date, but it may be sooner than that.

MR. TORTORA:
That's correct.

LEG. D'AMARO:

Any idea how much sooner, just projection wise.

MR. TORTORA:
Again, it's based on the structure.

COMPTROLLER SAWICKI:
And the RFP's, we have to go through an RFP process.

MR. TORTORA:
What the Comptroller is saying is depending on which banker is retained to structure the issue, they may be aggressive and, you know, anticipate that revenues are going to be stronger, other bankers might be less aggressive. So it's really hard to nail down how this deal is going to get structured, but the premise that you just stated is correct.

LEG. D'AMARO:
Okay. I want to go back very quickly to how we use the proceeds. Chairman Montano talked about can we use it for operating costs, it was raised by some of my colleagues as well. There's no penalty per se if you use it for operating costs, but I don't think that would be the first choice of anyone sitting here. And then we got into a little bit about, well, you know, if we don't have this money coming in recurring every year, does it somehow imbalance or create a structural imbalance for our operating budget? The history of the other municipalities that have done this are usually using the proceeds to pay down debt or pay interest on debt; is that traditionally how it's used?

MR. TORTORA:
I think -- first I'm going to just correct something I said earlier.

LEG. D'AMARO:
Yeah.

MR. TORTORA:
I see that in the scenario I have in front of me, they anticipated securitizing through 2037, so I misspoke a moment ago.

CHAIRMAN MONTANO:
Thirty-seven, okay, that makes more sense.

LEG. D'AMARO:
Oh, okay, 37.

MR. TORTORA:
But getting to your question, I would think if you looked at all of the tobacco transactions done in New York State, and I think 39 counties have done them thus far, I would think the majority of those counties have used a portion of the proceeds to defease existing debt. So if they had debt service that was going to occur on outstanding bonds, debt service that was going to occur --

LEG. D'AMARO:
Would the pay down of debt enhance the County's credit worthiness?

MR. TORTORA:
It would.

LEG. D'AMARO:
It would.

MR. TORTORA:
It would, that's a credit positive.

LEG. D'AMARO:
Would it also eliminate the fear of creating a structural imbalance? Because if you're taking the revenue but paying down an obligation, you're balancing out, in effect.

MR. TORTORA:
Yeah. As Marcy Block said a moment ago, how you use the proceeds is of course of utmost importance to the rating agencies. And while potentially you could create a structural imbalance, I wouldn't like to characterize it that way. What you're doing obviously is you're taking revenues today at a cost of giving up some future revenues.

LEG. D'AMARO:
And applying it to tomorrow, right.

MR. TORTORA:
You'll have many years to plan for, you know, the decreased revenues in the future. So if we --

LEG. D'AMARO:
I agree with you. You know, the imbalance question will be faced on a year-by-year basis going forward depending on how we craft our budget, really. We'll be required to balance it anyway. But using the proceeds to pay down debt or debt service would enhance our credit worthiness and perhaps our credit rating standing with the rating agencies, despite the fact that we securitized the revenue seem.

MR. TORTORA:
We would -- the characterization in our business, it would be deemed a credit positive.

LEG. D'AMARO:
A credit positive. I also want to go back very quickly and then I'll yield to the risk, Legislator Kennedy had asked a few questions about this. I'm wondering, in your opinion, is the risk sufficient enough at this point here today that we should be considering doing this even if we weren't facing some kind of fiscal situation going forward; in your opinion?

MR. TORTORA:
Well, I'd respond to that by saying two-thirds of the counties in the State have assessed that risk and I do think that was the primary motivation for most of those counties to securitize, to transfer the risk away. It's clearly a policy decision.

LEG. D'AMARO:
Sure.

MR. TORTORA:
And as I've said, you've done very well so far because you've gotten every dollar that's come in, unlike all the other large counties in the State. But at some point, my opinion, there's going to be a change in that revenue stream and it's just a question of when is that going to occur. For example, if science found some way of turning off the craving for nicotine, perhaps consumption would drop by half in a year or in five years.

LEG. D'AMARO:
Then we'd have a structural imbalance because then we wouldn't have the money coming in.

MR. TORTORA:
Well, then those -- right, then those revenues would slow down to you.. if you securitize your revenues you shift the risk to an entity, to this bankruptcy remote entity that you're going to create.

LEG. D'AMARO:
How much of the discount is based on time as opposed to risk shifting?

MR. TORTORA:
Most of it appears to be based on time.

LEG. D'AMARO:
It is, right now.

MR. TORTORA:
They discount -- yeah. I mean, and that's -- so we present value based on the cost of capital, so that's the time factor.

LEG. D'AMARO:
One more quick question, kind of dovetailing on the risk issue. You talk about back-stopping, which I guess would be the municipality or in this case the County somehow guaranteeing repayment of the bonds; is that correct?

MR. TORTORA:
That's correct.

LEG. D'AMARO:
Is that something -- and because of that you can get a lower interest rate on the bond.

MR. TORTORA:
That's correct.

LEG. D'AMARO:
And enhances the credit worthiness for the bond holder to purchase the bond, I guess.

MR. TORTORA:
Correct.

LEG. D'AMARO:
All right. And does -- is that advisable? When we look at perhaps in the future proposals on how to securitize, is that something that we want to be looking for or is it too risky to be doing that?

MR. TORTORA:
Well, it's certainly something you want to consider; again, it's a policy decision. But we could quantify you, as will your bankers, what the value is if indeed you back-stopped it. We know the County is a "AA" credit. If indeed the County pledged something, if it pledged its general obligation, its full faith and credit, that's the strongest thing it could do, certainly. And as a result, rather than selling "BBB" rated securities based on the tobacco company, the investors would look through that and say, "Ultimately, Suffolk County is "on-the-hook for this". It would probably trade maybe not at your "AA" level --

LEG. D'AMARO:
Right.

MR. TORTORA:
-- but certainly at the high "A" level. You might see interest rates, rather than five and a quarter to six and a half, you might see interest rates at three and a quarter to four and a half, it could be -- so that could be quantified by bankers once we're in the market.

LEG. D'AMARO:
Okay, and very last question. We talked about different numbers depending on the percentage of the stream that's securitized, from 220 million down to 121 million. If that chunk of funds comes into Suffolk County, is there any prohibition, because we've securitized the revenue stream, of using

a portion of that towards tobacco cessation or tobacco programs?

MR. TORTORA:
No.

LEG. D'AMARO:
There's no penalty for doing that.

MR. TORTORA:
No, there's not.

LEG. D'AMARO:
So of course, once we get the money in, we can still fund those programs to the extent we choose to and we can even use these proceeds to do that.

MR. TORTORA:
I would suspect, before you went to the market, I would suspect you'd probably already have earmarked what those monies are going to be used for.

LEG. D'AMARO:
Right.

MR. TORTORA:
And as I said earlier, most jurisdictions, it's my understanding, have used a portion, and likely a significant portion, to fund -- to defease existing debt or perhaps a one-time capital expense like building a new health care clinic or something like that.

LEG. D'AMARO:
Okay, thank you very much. I appreciate it.

MR. TORTORA:
You're welcome.

LEG. D'AMARO:
Thank you, Mr. Chairman.

P.O. LINDSAY:
Rick, put me on the list.

CHAIRMAN MONTANO:
Legislator Beedenbender.

LEG. BEEDENBENDER:
Hi. I wanted to talk about the risk a little bit, and I know we discussed it extensively. But when we talk about shifting the risk, we're obviously trying to project, you know, that at some point they could stop paying or there would be a decrease. Has there been any study to find out at what point we believe the decrease in tobacco sales will outpace the CPI increase, and then that 23 million which could be 24, 25 will start to go the other way?

MR. TORTORA:
I suspect that's addressed in the Global Insight Report, a copy of which --

LEG. BEEDENBENDER:
Which we have to pay for.

MR. TORTORA:

-- an older copy we could certainly get for you.

LEG. BEEDENBENDER:
Okay.

MR. TORTORA:
I mean, as you might imagine, last year was a big deal, was a big year for tobacco. I think almost $20 billion in tobacco bonds were sold. Compare that to the one year earlier where the number was I think probably just over five billion. So there's been a lot of time, a lot of money spent analyzing this issue from all different angles, so I'm sure that specific issue is a sensitivity analysis, if you will, I'm sure that's been done, I don't have that at the moment.

LEG. BEEDENBENDER:
Okay. That $20 billion that was done last year -- I think you said 20, right?

MR. TORTORA:
Approximately 20.

LEG. BEEDENBENDER:
Now, has that number, and if it continues to increase, does that have an effect in the future? So let's say we decided not to do this now and we did it six years from now and now there's $100 billion worth of these bonds in the market, I guess the question I'm asking, the more counties and municipalities and states that do this, does that make it less attractive if we were to do it?

MR. TORTORA:
I don't think so.

LEG. BEEDENBENDER:
Okay.

MR. TORTORA:
And then just to be clear, the 20 billion that I spoke of, those were transactions done last year. Obviously there were billions done in the prior eight or nine years, some of which are still trading in the secondary market.

LEG. BEEDENBENDER:
So there's no like saturation concern; that's what I'm trying to ask.

MR. TORTORA:
That's funny, I read -- in preparation for this, I read an article about that last night. There seems to be a real appetite for this. There's a risk that the investors seem to understand now, but obviously the return, the tax exempt return is substantial. There was a time -- there's not a huge market in terms of investors buying tobacco bonds; at one point there was almost one player, the Rochester Fund. So that the New York -- for the New York paper, the New York tax-exempt funds, Eaton Vance and firms like that, they're the ones that are buying this paper and putting it in their portfolios and they've been getting very significant returns over the last eight or ten years.

LEG. BEEDENBENDER:
Okay. Is there any prohibition -- because I know that what has been discussed, obviously we don't have a proposal but we would like to spread this out over several years, we don't want to take a gigantic one-shot in one year because I don't know of any large capital project that we would use this for. We would like to spread it out over -- at least I would like to spread it out over four or five years, you know, maybe 50, 40, whatever it might be. Is there any prohibition through this deal or any problems that you might see if we were to do that? So we're going to take some of the revenue and pay down some debt in '08, some debt in '09 and so forth, because we can't simply pay it off; we can't pay that much debt off in one year, as has been explained to me. So is there any way, anything that prevents us from doing that, structurally and over several years?

MR. TORTORA:
Not to my knowledge, no.

LEG. BEEDENBENDER:
Okay. I'll yield, I'm done.

CHAIRMAN MONTANO:
Legislator Lindsay.

P.O. LINDSAY:
First of all, thank you, Mr. Tortora, for coming and sharing your knowledge with us today. It's very helpful to us in these troubled times.

MR. TORTORA:
You're very welcome.

P.O. LINDSAY:
We have a bill before us today that has been evolving and it calls for us to issue an RFP on tobacco securitization, to issue an RFP on tax liens, and we've even had a presentation on securitizing future tax liens. And the idea is to take these different concepts and to analyze them and see which is, in fact, the best bang for the buck for us in terms of where we're going to try and piece together a program that we'll use, yeah, some one-shot revenue, but we'll also incorporate some revenue enhancements and also will cut our expenses to try and plug this hole.

You know, we haven't talked at all about tax liens yet. Do you want to share your thoughts on selling tax liens or this concept of securitizing tax liens?

MR. TORTORA:
Certainly.

CHAIRMAN MONTANO:
Mister -- I think maybe there are a couple of questions on this issue first and then we can go into the tax liens, if you don't mind. Let's just wrap up this because I know we have some follow-up qustions, or if you want to go right into it.

P.O. LINDSAY:
Well --

CHAIRMAN MONTANO:
Whatever your pleasure.

P.O. LINDSAY:
I think it's all in the mix.

CHAIRMAN MONTANO:
All right, then --

COMPTROLLER SAWICKI:
I was going to get into that next and ask Mr. Tortora next bill, but we'll do the tobacco first?

P.O. LINDSAY:
All right. Okay, you want to finish the tobacco? Go ahead.

COMPTROLLER SAWICKI:
That was just --

CHAIRMAN MONTANO:
Yeah, I'd like to finish the tobacco. I think we just have a couple of minutes on this and then we'll go right into the next -- you know, your next subject matter. I know Legislator Barraga had a follow-up question.

LEG. BARRAGA:
Just one quick question to Ms. Block, I wanted to make sure I fully understood your comments. When you have a community, a County that has done tobacco securitization and taken a portion of those monies and used it to pay operating expenses, if I understood you correctly, that act in and of itself has not resulted in those counties or communities having a downgrade in their credit rating. Where a downgrade has taken place is if that community hasn't had a long-term plan to deal with the out-years; is that correct?

MS. BLOCK:
Yes, that is correct.

LEG. BARRAGA:
All right. So to your knowledge, if Suffolk County were to use a portion, if we went through with this process, for paying operating expenses, there's no history indicating that we would be downgraded; not so far, right?

MS. BLOCK:
I wouldn't say at first blush, no, there wouldn't be an immediate downgrade; however, I would like to qualify that statement. As you know, Suffolk County is rated in the "AA" rating level by all three rating agencies, that's a very high bond rating. Therefore, the expectation by the rating agencies is that Suffolk County would not use these funds for operations because you have the ability to balance your budget on a successive basis going forward using, you know, the resources that are available to the County or making what they would call tough management choices.

LEG. BARRAGA:
All right. But at least up to this point no other County has been downgraded for using tobacco securitization funds for operating expenses.

MS. BLOCK:
I wouldn't say directly, no.

LEG. BARRAGA:
Okay, thank you.

CHAIRMAN MONTANO:
Legislator Kennedy had a follow-up question.

LEG. KENNEDY:
I did on the risk side and I would pose this here to you, Ms. Block, or Mr. Tortora, both of you.

We're being asked to go ahead and make choices about a variety of things today and I'm very much interested in securitizing the tax liens. But when we talk about the risk elements associated here as one of motivators to go to securitize tobacco, let's look to the other side. If you're looking at those tobacco firms at this point and you're valuing them for stock purposes, are they a buy, are they a sell, are they neutral; what's the value there?

MR. TORTORA:
I don't think we're qualified to make that assessment. I mean, it's an interesting question, certainly. I don't invest in {Altreo} or Reynolds or any of those companies myself.

LEG. KENNEDY:
Okay.

MR. TORTORA:
What's the future of tobacco consumption in the United States? I think globally it's proven that tobacco consumption is going up significantly.

LEG. KENNEDY:
China is escalating, India is escalating, all over the world is escalating.

MR. TORTORA:
Right. But again, our --

LEG. KENNEDY:
Now, they're not part of the MSA, I understand that, it's only domestic sales.

MR. TORTORA:
Correct. In the U.S. -- right, the MSA is based on tobacco shipments, the shipment of tobacco products in the United States. So we're not qualified really to answer that question.

LEG. KENNEDY:
Okay. I'll yield.

CHAIRMAN MONTANO:
Okay. I want to thank you and just two quick questions. One is Mr. Sawicki, we spoke earlier about -- you know, kind of informally -- about the legal implications or the accounting implications with respect to securitization, and I think you made reference to a particular regulation or accounting procedure. Could you just very quickly, you know, inform us as a committee as to your thoughts on that, I know that that's something for further research.

COMPTROLLER SAWICKI:
Yes, thank you. And that's exactly, Mr. Chairman, where I wanted to go next.

CHAIRMAN MONTANO:
Oh, okay.

COMPTROLLER SAWICKI:
Before we enter into the bulk lien tax sale discussion and as a viable option. But late Friday, late Friday we were thrown a curve ball, for lack of a better description, from the County's independent auditing firm Earnst & Young, the partner, their partner Randy Nelson, through our Chief Accountant John D'Amico who's here with us which centers around GASB 48, Governmental Accounting Standards Board, Promulgation No. 48 which deals with how we are -- we as a County, or all counties and municipalities across the country have to deal with and report revenues, future revenues vis-a-vis a specific tobacco settlement deal. And basically GASB 48, to try to -- it's very complicated, again, it's a curve ball, we're still trying to decipher and understand its meaning in terms of what the future reporting requirements will be for Suffolk County if we embark on the tobacco avenue.

But the one thing is for sure, we've been working with the County Executive staff very transparently, this has been a terrific process, a very grueling process over the last several days, also with your Presiding Officer and other -- and Gail Vizzini, and we don't know where it's going to lead us. Rather than get into the real details of GASB 48 which basically says on our financial statements -- and of course we want our financial statements to always be in accordance with generally accepted accounting principals because that means the world to the credit rating agencies. And we'll never deviate from gap in terms of our -- in terms of the presentation and the formulation of our financial statements.

But GASB 48 basically says -- will basically dictate or is attempting to dictate that we cannot recognize all revenues up-front in a transaction. And if we're not able in our budget or in our financial statements to realize all revenues up-front as a tobacco deal would give us and instead spread them out over the lifetime of the bonds or the lifetime of the deal, that doesn't do a whole lot to solve our budget problem. But again, it still -- it's complicated, we're still trying to gain an understanding; we've been in touch with the State Comptroller's Office, we've been in touch with GASB itself, the personnel staff at GASB. And it still remains an option for us, but another option which I want to ask Mr. Tortora to get into is the tax lien sale which is a viable option for you to consider should the tobacco thing not work or raise a little more skepticism than we'd like. So with your permission, unless you have any further questions about GASB 48, I'm going to have John D'Amico --

CHAIRMAN MONTANO:
No, no, I just wanted to bring that out and we'll deal with that later.

COMPTROLLER SAWICKI:
Yeah. I would like to turn it over to Mr. Tortora to start talking about the bulk lien tax sale, again, which is another viable option for us to consider, I think.

MR. TORTORA:
Good. Thank you, Joe. As I stated earlier, what the County's practice has been over the past many years is every fall the County issues what we call a DTAN, a Delinquent Tax Anticipation Note, and that DTAN is issued in anticipation of the County's receipt of revenues from delinquent taxes that have been levied in the prior five years, and that borrowing typically ranges from as little as $30 million to as much as $100 million.

One of the aces up our sleeve that we always talk about when we speak with the rating agencies, in addition to tobacco securitization, is the County's ability to tap into those tax liens for a revenue source, and that could be done primarily two ways. It could be done by securitizing the revenue stream, somewhat similar to the way tobacco is securitized, setting up bankruptcy remote entities at the corporation, selling the tobacco proceeds to that entity, the entity would issue debt to fund the purchase of the tobacco. An alternative would be to sell outright those tax liens to a private company; there's a handful of companies in the business of purchasing tax liens in New York State and elsewhere. We recently worked with a client, Monroe County, New York, Rochester, and they were in a position, similar to where you are now, where they needed to get monies to address an impending budget shortfall and they opted to secure -- well, they opted to tap into their tax liens, the transactions that we spoke of.

As we said, the traditional way has always been just to the sell to some third party and what the third party will do is they have a proprietary matrix and they plug in to that matrix every single tax lien that they may be purchasing, they'll purchase tax liens as recent as one year old and they might go back to tax liens that are 20 and 30, perhaps even older. Clearly, the more recent liens have a greater likelihood of being collected, the older liens don't have much value at all. If you sell your bulk lien, your bulk tax liens, very often what you do in conjunction with that sale is you transfer the right to process those collections to the entity that purchases the liens. So now they're sending out the letters, they might be involved in litigation foreclosure, etcetera. That certainly -- while this topic as well has come up over the years at the County, the biggest concern that I always heard in Suffolk was the County didn't feel comfortable that they could clearly identify all of their existing liens such that there wouldn't be the classic widows and orphans problem where someone is foreclosing on a widow or an orphan and isn't that an awful thing. So accordingly, they never -- the County never moved on that.

We understand that your ability to identify your liens has improved substantially over the years, so that's one option. And again, of course, the way those tax liens are valued, a recent lien of course has more value than an older lien, a lien where the property is still occupied has greater value; there's a whole host of issues. The value of the lien versus the value of the property, that factors into how the purchaser determines the purchase price.

An alternative to that is a new product that's in the market which is a tax lien securitization product. Again, a matrix is used to determine the value of those liens and the product that we've gotten presentations on bases the purchase price on a five year historical collection rate to determine what the value is of the existing liens. Again, the way I understand that transaction would work, the County would issue bonds sometime this year, perhaps in the summer -- strike that, the County would be issuing the bonds this entity that would be created, this local development corporation would issue bonds, take the proceeds from the sale of the bonds to purchase these -- the County's liens. In this transaction, the key distinction is that the County would continue to enjoy the penalties that accrue to delinquencies which are significant; 12%, 18% in some instances. The County would continue to process the liens. So there's two very distinct ways to tap into the tax lien asset that the County has.

The securitization is a relatively-- well, it's a new product, the one that's being presented to the County, but we understand that Chautauga County in western New York has done a form of securitization in the past for their tobacco -- for their tax liens, but it's somewhat a novel approach. We understand that the approach that would be employed under this securitization would be the issuance of variable rate debt that would be insured and there would be a remarketing agent, it would be -- the debt would be resold on a weekly basis or on a monthly basis depending on how it's set.

The interest rates on -- that you would pay on that debt is very much determined by the structure of the transaction and how it's received by the credit rating agencies. We understand that the individuals working on this transaction have met extensively with Standard & Poors, have worked with New York general obligation and asset back attorneys to put this structure together. So it has not yet been done in New York State or elsewhere, but a lot of time and effort has been put in to developing it and it's another alternative for you to consider certainly.

CHAIRMAN MONTANO:
Thank you. Are there any questions? Legislator Kennedy.

COMPTROLLER SAWICKI:
Mr. Chairman?

CHAIRMAN MONTANO:
Yes, sir, go ahead.

COMPTROLLER SAWICKI:
Excuse me, may I just add on to what Mr. Tortora said. Of course, as we -- if this is an avenue that this body and the County Executive would pursue and like to consider, we also have to determine the GASB 48 effects, if any, on this as well.

One quick thing that I forgot to mention before this. GASB 48 basically took effect for the 2007 reporting year, and what's extremely puzzling to a lot of us, all of us, is that if there were 10 billion or $20 billion worth of tobacco deals last year, what's going to happen to those municipalities and how are they going to report their 2007 financials in accordance with GASB? So there's a lot of stuff still floating up in the air right now and we're just going to have to work this thing out as we go along.

CHAIRMAN MONTANO:
I hear you on that. Thank you. Legislator Kennedy?

LEG. KENNEDY:
Thank you, Mr. Chair. I had an opportunity probably ten years ago to look at the factoring of the tax

liens in Suffolk County under a prior administration. And I'm interested to hear that it's coming back around now at this point and I think that it has potential to go ahead and realize a significant amount of funding for us. But I think it's important -- and through the Chair, I'm hoping that we're going to get to the opportunity where you're going to bring us back some concrete information.

First of all, the comparisons with other Counties, I guess, is important and poignant, but again, you know you're working under the Suffolk County Tax Act. We are unique amongst all 62 counties here and the responsibilities, I guess, and obligations and the interplay is a little different than what you're going to find in Monroe and elsewhere.

Also, I think it's important if you look at classes of property, as you go into it, much like we just talked about partial securitization of tobacco, if you looked at factoring of commercial or vacant or industrial properties to the exclusion of residential, I think those dynamics would be extremely important to us.

Secondly, the ability to go ahead and ultimately retain control of disposition of the liens I think is critical because I believe my colleagues all would say we never want to be in the position where we don't have the ultimate ability to discuss or engage in dialogue for a residential, primary residential owner in hardship.

The other thing I think that's important when you look at that is that the amount of interest, I guess, and I'm trying to understand. When you talk about variable rate with securitization; I don't understand that. We have fixed rates in the statute which govern where we're at and after a four to five year time period, that lien, we have a deed that's taken. In essence, we never talk about a 10 or a 20 year old lien that's not been perfected because a deed will have been taken. So tell me a little bit more.

MR. TORTORA:
Sure, my comment with regard to interest rates. We understand that the tax lien securitization product as a component of it would involve the issuance of variable rate debt. When the County sells debt, traditionally they sell fixed rate debt, so on the day that we sell your bonds we know that for a bond maturing in '09 you're going to pay 2%, bonds maturing in '10, 2.05, etcetera. In a variable rate transaction, the bonds go out and they're sold into the market place, they're sold with insurance, with something called liquidity. Since the bonds are resold typically on a weekly basis, if it's a weekly variable rate deal, you have to make sure that those bonds sell every week; in the event that they don't you have a liquidity provider that ensures that the money is going to be there to resell the bonds. The rate is set, reset every week on a weekly basis based on prevailing market conditions. One of the benefits of that is short-term rates traditionally are substantially lower than long-term rates. Short-term rates are certainly -- are also much more volatile, but they are traditionally -- it's a lower cost of capital.

LEG. KENNEDY:
We would not be in a position where Nassau County was recently where they issued and then there were no takers and then they incurred some kind of a much larger responsibility?

MR. TORTORA:
That potentially could occur, I suspect. When -- many jurisdictions across the United States, not many in New York on the local level but certainly the City of New York, we said Nassau County, a lot of the State agencies, they have been involved in the issuance of variable rate debt and a number of them have had failed remarketings because of the recent problems in the market with insurance companies being downgraded and credit tightening up, they've had these failed remarketings and as a result in Nassau County, you know, a week in January they might have been paying 2% on their debt and then when they couldn't sell, they had a failed sale, the rate notched up to 15%, and I believe they paid that for a number of -- they're currently still paying that, I suspect.

LEG. KENNEDY:

Which they're attempting to factor back out of right now.

MR. TORTORA:
They are attempting to take out those bonds with another debt instrument. We're working right now on a project for a small water district that had the same problem, they were insured by {Fidget}, one of the companies whose credit rating changed, and that triggered different events under the bond covenance and as a result, their rate went from effectively 4.27% to over 8%, and this is a small water authority, they have to pay that rate until we can take out those bonds with fixed rate bonds which we expect to do in the next maybe three weeks.

LEG. KENNEDY:
How long would it take you to go ahead and put together some global type of an assessment for us based on some of the areas that I was talking about? The Treasurer's Office and the Town Assessors are able to go ahead and produce the roles for 500,000, 550,000 parcels; that shouldn't be that hard to go ahead and extract out relatively quickly.

MR. TORTORA:
And what would you have us produce?

LEG. KENNEDY:
Well, basically a model, and I don't want to speak for the Chair, but I guess I'll go just a ways, and I know my colleague, Legislator D'Amaro, has a lot of knowledge in this area as well. But my area of interest would be to go ahead and extract from that universe, that global universe your total numbers of vacants, of your commercials and your industrials, run them as far as the current amounts of delinquencies and projected yield that you might get out of that if we were going to do outright transfer. We sell liens right now, we've sold liens on Brownfield properties. Although we don't do it in large scale, there is a beginning dialogue that's going on amongst us at this point right now about the possibility of that, but under no circumstances anything associated with residential. However, the potential yield associated with the transfer, I guess, of this receipt with us still retaining ultimate control of those liens. How's that in a nutshell?

LEG. D'AMARO:
(Shook head yes).

MR. TORTORA:
Working with bankers and other providers, we could certainly help deliver in probably a matter of a week or two some numbers that would help quantify. So if I understand you correctly, you're looking for -- what's the value if you securitized or sold tax liens only related to non-residential properties in Suffolk County; what kind of money, monetary result might the County be able to achieve in --

LEG. KENNEDY:
Well, I don't want to restrict the matrix, I mean, to the exclusion of my colleagues. But, I mean, I would have an interest in that as a subset of whatever you wind up doing.

MR. TORTORA:
I'm sure that could be provided.

LEG. KENNEDY:
I'll yield.

CHAIRMAN MONTANO:
We have Legislator D'Amaro on the list.

LEG. D'AMARO:
Okay, thank you. Two ways to go, one is to sell the existing liens outright or assign those liens to

some party that would purchase them for a discounted amount. That has nothing to do with future liens, it's just whatever is on-the-books at the time assuming we could accurately identify the tax liens.

MR. TORTORA:
Correct.

LEG. D'AMARO:
That's one way to go. By the way, how -- you know, John or Ed, how do you identify these tax liens? I mean, it's a statutory lien, isn't it?

LEG. KENNEDY:
It's an assessment roll that's generated by all of the ten towns and then the 13 villages, I guess, that assess, and what happens is the opens are turned over to the Treasurer on May 31st of each year. So by mid June to late June, there's a compilation at that point out in the Treasurer's Office of all of what we would call the opens or unpaid property tax. By operation of the Statute -- well, actually the year -- when we set the Warrant it becomes a Levy and there's now a lien against the property, so then it becomes a delinquent once we swing past May 31st.

LEG. D'AMARO:
All right, so there is a mechanism there to identify the delinquent tax liens so we know what we have to sell, so to speak. And we're comfortable now in Suffolk County with IDing those tax liens; is that an accurate statement, Mr. Sawicki?

COMPTROLLER SAWICKI:
Yeah. You know, I -- Mr. D'Amaro, I really can't speak for the Treasurer or even the Clerk at this point, but I believe so, yes.

LEG. D'AMARO:
Okay, thank you. All right, so that's one, so we have these existing liens on-the-books which, by the way, are a pretty good revenue stream for Suffolk County because as we all know, when real property changes hands, title companies get involved and nothing is closing, really, without those liens being addressed and paid off in full with interest, usually. So that's one way.

The other thing, of course, is the securitization, this new proposal that's floating around. My threshold question on the securitization, are we talking about the same past tax liens or are we talking about a revenue stream anticipated from not yet existing tax liens going in the future?

COMPTROLLER SAWICKI:
That's an excellent question, Mr. D'Amaro, because the former purchase of tax liens up to this point would be exempt from the GASB 48 implications. Anything future revenues -- again, it's still very gray because I'm not privy to the newer securitization that's been floating around, quote/unquote -- but if it involves future revenues, then GASB 48 could very well come into play, just like it potentially may with the tobacco.

LEG. D'AMARO:
Right, but you could securitize the existing liens in the sense that you're not conveying ownership of them, or is that kind of like an inherent conflict; you can't securitize existing revenue stream, is that --

MR. TORTORA:
What I understand and under the securitization program, the most recent -- the five most recent years would be securitized. So tax liens that were generated in '03, '04, '05, '06 and '07 would be securitized with the financing that would occur perhaps this summer, and then when the '08 liens are created in December there would be another transaction that would occur at that point to

purchase those liens.

LEG. D'AMARO:
All right, but does the proposal also look at the future liens that don't even yet exist?

MR. TORTORA:
The program, the securitization program then envisions that in each ensuing December, for as long as the program is in effect.

LEG. D'AMARO:
Right.

MR. TORTORA:
That year's liens --

LEG. D'AMARO:
Would be added.

MR. TORTORA:
-- will then be purchased as well. In some instances, those liens would be purchased with monies that have accumulated with this corporation as it collects the old liens.

LEG. LINDSAY:
Rick, put me on the list again.

MR. TORTORA:
To the extent that there aren't sufficient funds accumulated in the stabilization fund to purchase the new year's liens, then an additional financing would occur.

LEG. D'AMARO:
Okay. Now -- so there are a couple of scenarios, you know, we're dealing with either existing liens or perhaps short-term into the future liens that have not yet materialized, but we anticipate will. We're getting an influx or a bulk amount of cash as we're selling these liens, that would be recurring revenue; would it be recurring revenue?

MR. TORTORA:
You would get the initial significant amount of cash, perhaps something in excess of 150 million.

LEG. D'AMARO:
Right, and then annually.

MR. TORTORA:
And then each year it's envisioned that perhaps the purchase price might be something close to 95 cents on the dollar --

LEG. D'AMARO:
Right, because it's very near.

MR. TORTORA:
For the subsequent year's liens.

LEG. D'AMARO:
Here's my question. In all of those scenarios, right now Suffolk County, and Legislator Kennedy referred to this, has flexibility because we control our liens. You know, I'm a homeowner or a small business owner, I fall onto difficult times; you know, it's not a matter of blame, it's a matter of trying to help people, help people remain in their homes. After a year and a half I find a way to pay off my tax lien which has now been securitized or sold or assigned; what happens, how do we deal

with that?

COMPTROLLER SAWICKI:
That's -- Mr. D'Amaro, you're absolutely correct in that assessment. And your question is very valid because, you know, in a most recent conversation with the GASB people, to make this a clean deal, so to speak, you would have to literally sell our liens to a private entity. And of course as Mr. Tortora indicated earlier, there would be no -- you know, no sympathy for anyone because at that point it's a financial deal and it takes politically out of your hands. So that's the downside to this thing, as you articulately pointed out. But for this to be really clean to comply with GASB 48 -- again, as I mentioned before, curve balls and complications, this takes -- you know, for this to be clean it has to be a private entity, they made that clear yesterday a number of times, but then it removes, you know, the sentimentality, if you will, from the consideration of this body.

LEG. D'AMARO:
Yeah. And Comptroller Sawicki, I appreciate that answer because I think all of us in the room share that concern.

COMPTROLLER SAWICKI:
Sure.

LEG. D'AMARO:
You know, can a proposal be drafted -- I'm not foreclosing the idea of selling these liens or assigning them or securitizing them, but can it be done in a way that we retain that flexibility and is that realistic to the financial market or even to the rules that I am not familiar with but that you are? You know, so all I'm saying, is this a non-starter really? I mean --

MR. TORTORA:
No, it's not.

LEG. D'AMARO:
Okay.

MR. TORTORA:
Because there's a clear distinction that I didn't make, I guess, clear enough earlier. Bulk lien sale to a private entity, you would relinquish your rights to collect on those liens as you typically do. In the securitization model that's being discussed, the County would retain the right, it would be I don't want to say business as usual, but something akin to business as usual in terms of how you collected on those liens. You would remain the servicer of those liens, so you would have -- you still would have that discretion.

LEG. D'AMARO:
As the servicer of the liens, we would continue to have all the discretion that we have today?

MR. TORTORA:
The current practice, how the County collects on liens with notices and notices of foreclosure and litigation and then finally selling the property --

LEG. D'AMARO:
Well, there's a distinction between servicing and having the authority to forgive a lien. So, you know, I want to be clear on that because my understanding, my simple understanding of this is once you've sold something I am giving up the authority to forgive or reduce or to compromise.

COMPTROLLER SAWICKI:
Right.

MR. TORTORA:

Understood.

LEG. D'AMARO:
Okay. Is that accurate?

MR. TORTORA:
I'm not an expert in liens. What I know of this program -- and again, you're making a very important distinction, I'm sure. My understanding of this Tax Lien Securitization Program is that while a County would sell the liens to this corporation and the corporation would issue the debt to finance the purchase, going forward the County would still collect the penalties and proceed in the way that it traditionally would but for the liens being sold. With regard to that last part of your statement, that distinction, I'm not quite sure how that would work.

LEG. D'AMARO:
Well, to me -- and I'll yield after this -- that is an extremely important distinction, probably the distinction that we need to address. Because once we give up the authority to make those decisions as opposed to simply processing administerially, then we are, you know, of course, giving up our discretion and that's something that, you know, I think we need to take a hard look at.

MR. TORTORA:
Understood. And I'll just say that this group has spent certainly more time in the last week or so preparing for the tobacco component of this discussion than the tax lien sale or securitization component.

LEG. D'AMARO:
Right, that's the big issue. That's fine. All right, thank you again.

MR. TORTORA:
You're welcome.

CHAIRMAN MONTANO:
All right, Legislator Beedenbender.

LEG. BEEDENBENDER:
I just want to continue on what Legislator D'Amaro said. I won't go too long. I don't want to talk so much about the authority but just the possibility in the sense that we have a couple of programs like a 72-h program in the County of Suffolk where we would give a property to a town for affordable housing purposes and there's usually -- there's usually back taxes due on it, 20, 30,000. So even if we still had the authority to do it, to do that, that would be good.

But the second question is if we were to give it to the town and we've already sold that lien, now it seems to me that we'd have to make the program whole and not only could we -- we couldn't just give it away to the town, we'd have to make the program whole by making a payment equal to back taxes. Do you --

MR. TORTORA:
I imagine that some liens could be extracted from this process. And I would think, as Mr. Kennedy suggested, that's certainly very much in your interest. So before you transferred any of your authority vis-a-vis the liens, the collections, the servicing, etcetera, the potential for giving, you would try to extract those that could be a problem.

I'll also add that in our experience when jurisdictions have sold liens, the entity that purchases the lien, they don't want to be on the front page of Newsday either, you know, with the eviction notice with the widows and the orphans. So when they, during the normal processing, you know, experience if you will, over a period of months and years sometimes, when they identify problem properties, they will always go back to the original jurisdiction and say, "This might be one that you don't want us to do anything on." And then what typically happens, they'll swap out a bad lien for a good lien, for a replacement lien in a subsequent year.

LEG. BEEDENBENDER:
Well, before I move away from this, just through the Chair, I wanted to ask Legislator Romaine as our past Clerk. Do you think it's possible -- I know we talked a little bit earlier, is it possible to identify the liens? I mean, I understand that we're doing better at it now than we were in the past. But I just -- just instinctively, I'm not sure that we could identify all those that we would 72-h, but I don't even know how we can identify a parcel that could end up as a Section 215 and things like that. So do you have any response?

LEG. ROMAINE:
It's certainly possible to identity, it's absolutely possible to identify all the liens. Plus which if you were going to do anything, if you were going to sell any liens, you would probably want to concentrate on commercial, industrial and vacant land and you can concentrate on that because very clearly, in every deed filed in the County Clerk's Office it indicates whether it's improved property or not. So you can identify it and there was no question, it may require some input, it may require an additional computer program, it may require some minimal type of investment, but absolutely.

LEG. BEEDENBENDER:
Okay, thank you.

MR. TORTORA:
I'll also mention something because I think this might be of value to you. We know, for example, one of the firms that we've worked with in the past, once this transaction starts to gain momentum, they'll bring in a team of a dozen or two dozen individuals. They'll actually go to every single site where they're about to purchase a lien and take a look at it from the street -- you know, is it occupied, is it vacant, is it commercial, is it residential, etcetera, is it a burned-out building -- because that all factors into their matrix when they assess what the value of the lien is and ultimately their purchase price.

LEG. BEEDENBENDER:
Okay. Just to continue on and a couple of other questions about that. Joe, about GASB 48, I just want to make a distinction. It's not a budget -- it's not a prohibition, a budgetary prohibition, it's an accounting -- well, I don't want to say recommendation, it's really a principal that they require. So they're not prohibiting the actual practice, they're restricting how we put it in a budget and how we show it

COMPTROLLER SAWICKI:
They're restricting how we show it on our financial statements, strictly the financial statements. Budget, I mean, you know, we've always enjoyed a budget in the County which was in conformance with generally accepted accounting principals.

LEG. BEEDENBENDER:
Uh-huh.

COMPTROLLER SAWICKI:
The idea would be to stay that course, but you're going to have to just make that determination as a policy body if you want to, you know, go off from that.

LEG. BEEDENBENDER:
And then just to go back to the whole securitization of the liens as a whole. It seems to me that for the most part, in almost all cases, these are things that we collect; it might take five years, maybe a couple of years more. You know, if somebody doesn't pay their taxes back then we auction it off and we get our money back. So as opposed -- the risk as opposed to tobacco seems completely

different because there doesn't really seem to be much risk in this; it takes a couple of years but we do get our money, as opposed to tobacco where we have no idea. You know, like you mentioned earlier, if science comes up with a way to shut off the desire for nicotine, then this could disappear over night. So I guess -- do you have any response to that? Because it just seems that tobacco has a higher sense of uncertainty associated than the tax liens do.

MR. TORTORA:
I think that's certainly true.

LEG. BEEDENBENDER:
Okay.

MR. TORTORA:
I think your -- the collection rate in Suffolk County is in the high 90's. You know, ultimately I think you probably collect, it may be in excess of 99%, it's a very high rate, and that's the case in most jurisdictions. I only know one County in the State, I think Sullivan County, that has a low collection rate, maybe in the 80's. But certainly your assessment is correct; the likelihood that you will indeed continue to collect this revenue on the tax liens is very high, very different than the likelihood that you will continue to receive tobacco, then tobacco is beyond your control.

LEG. BEEDENBENDER:
Okay. And just last question and then I'll yield; do we have any projection -- I know we talked about some numbers from tobacco; do we have any projection as to revenue, what this might --

MR. TORTORA:
Yeah, I understand that last year's tax liens in '07 were about 70 million. I further understand that if we went back five years that the number, the proceeds number that you would get at the end of a transaction might be somewhere in the neighborhood of $175 million or perhaps a bit higher than that, perhaps as much as 200 million.

LEG. BEEDENBENDER:
Okay, thank you. I'll yield.

CHAIRMAN MONTANO:
Just one quick thing, Richard. The figure you just mentioned for tax liens in '07, that's an accumulation?

MR. TORTORA:
No, that's just for the '07 year. So we understand that the tax liens generated in '07 were 70 million and then the vast majority of those are collected very quickly. In the past the amount of tax liens generated in the year were typically 50 million, last year your tax liens went up significantly.

CHAIRMAN MONTANO:
All right, we'll look at that. Legislator Barraga because we're running -- I want to remind the committee we're running late on time, we have approximately 30 speakers. So Legislator Barraga?

LEG. BARRAGA:
Mr. Tortora, let me ask you a quick question. It is my understanding, under the proposal we're talking about, that once that entity, the public benefit corporation, that LDC is set up, they issue the bonds and they also assume the debt associated with the bonds, not the County.

MR. TORTORA:
That's correct.

LEG. BARRAGA:
All right. So to me, it wouldn't seem to have any negative effect whatsoever with reference to the

credit rating of Suffolk County.

MR. TORTORA:
Again, you know, I think securitizing your tobacco or securitizing your tax lien in and of itself isn't credit negative, what you do with the proceeds is the key. If all of a sudden you put 50 into operating, then the analysts are going to say, "Great, you're fine this year, what happens next year when that 50 is gone, 50 million?"

LEG. BARRAGA:
And it's also my understanding, in deference to what Mr. D'Amaro was talking about, that Suffolk County would continue as far as the collection process just the way they have in the past.

MR. TORTORA:
That's what we understand in that program.

LEG. BARRAGA:
Thank you.

CHAIRMAN MONTANO:
Legislator Lindsay.

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P.O. LINDSAY:
First, Joe, something that you said has me confused. You thought securitizing the lien program would also be affected by this GASB ruling, and why I don't understand that is because we're dealing with five years, current year going back four. We might not have the money yet but it's money that was due to us in the past. Doesn't the ruling you're talking about from GASB talk about future revenue?

COMPTROLLER SAWICKI:
Future revenue only.

P.O. LINDSAY:
Okay, but this isn't future revenue.

COMPTROLLER SAWICKI:
It's my understanding, Legislator Lindsay, that the idea, the proposal that has been floated over the last several months could possibly deal with future tax liens and if that's the case, GASB could have, might have an issue with that. If you go to the basic traditional bulk lien tax sale, we're basically selling off a receivable, something that we've earned already. GASB 48 only pertains to future revenue, any future revenue streams.

P.O. LINDSAY:
See, that's what I have to review again because there was -- the securitization proposal that we heard is based on the past five year history and it's a rolling, it adds another year every year and you sign up for the program for 30 years or something like that, but the actual revenue is from liens that are already on-the-books.

COMPTROLLER SAWICKI:
Right, I think -- again, Legislator, I'm not that familiar with the newer proposal, I just know in our conversation --

P.O. LINDSAY:
I don't think any of us are, that's what scares us.

COMPTROLLER SAWICKI:
Well, that's the thing, that's what I started saying earlier; it's such a murky issue right now, we have a way to go to resolve all of this stuff with GASB 48.

P.O. LINDSAY:
And the other thing to Mr. Tortora, am I looking at this wrong or are we using the tax liens as collateral towards selling paper? Does the -- the corporation takes these tax liens as collateral, more or less, and sells that revenue stream, but in effect we're not really selling the tax lien itself.

MR. TORTORA:
Again, the tax liens have value and the value can be determined based on the use of this pricing matrix, so you are selling something of value. And you can say you're collateralizing the debt issuance with those tax liens, I think that's appropriate.

In terms of the other implications of the program, unfortunately I'm not as well versed perhaps as I should on it at this point. But I do want to just add something to what Mr. Sawicki said regarding GASB 48. One of the other components that GASB 48 addresses is if there's some ongoing connection, if in some way, shape or form the County can impact the use of any of the revenues that come in under this transaction, that in itself could trigger this tax treatment. So we understand that in -- that the County might be in a position with the securitization and with the tobacco deal to influence the use of those proceeds in the future. For example, in tobacco, if the proceeds come in in excess of debt service, you'd have that turbo structure, it would be accelerated. And in the tax liens you're building up the stabilization fund, how you use that stabilization fund in the future, perhaps to purchase subsequent liens, that might trigger your ability to make that decision or effect that outcome, it might trigger the GASB 48 treatment.

COMPTROLLER SAWICKI:
That --

P.O. LINDSAY:
That really clarifies everything.

MR. TORTORA:
I apologize.

CHAIRMAN MONTANO:
Good, I'm glad. We'll move on.

COMPTROLLER SAWICKI:
Bill, if we just stay -- if we just deal with current -- a clean sale of our accounts receivable, our tax lien receivables, then we're fine, there's no --

P.O. LINDSAY:
I understand that. But on the other point, the securitizing, I mean, this corporation is going to be created, that corporation is going to issue paper and commit to pay interest on that paper and they're using the tax liens to back up that paper; is that too simplistic? Is that too simplistic of an explanation?

COMPTROLLER SAWICKI:
No, they're actually buying the tax liens, Bill.

CHAIRMAN MONTANO:
They're buying the liens.

MR. TORTORA:
They own those liens.

P.O. LINDSAY:
Okay, but the corporation does.

MR. TORTORA:
Correct.

P.O. LINDSAY:
But the corporation doesn't transfer them to the investors, they sell them paper against that, right?

MR. TORTORA:
That's correct.

P.O. LINDSAY:
Okay, that's all I want to know. Thank you.

CHAIRMAN MONTANO:
Okay, Legislator Kennedy had a follow-up question, then we'll get to the agenda.

LEG. KENNEDY:
The Presiding Officer basically got out what I wanted to try to go at with securitizing. My understanding is that the inducement to the market out there is to purchase a component of the stream of revenue off the lien, not the actual outright transfer of the ownership of the lien itself. That's how we retain the element of control, it's that delta between what you have as far as your interest and penalties that accrue over the multiple components of years that has value out there in the market. So if we have the ultimate ownership of the lien, we therefore have the ability to go ahead and do our 215's, do our 72-h's, do all the other things that we do to address hardship items and things like that, have our vetting. But what we've done is we've just marketed, if you will, a component of the revenue stream; that was my understanding of it, that's where the value was.

The other question, though, is the DTAN, can we continue to go ahead and issue a DTAN if we engage in the securitization process?

MR. TORTORA:
We understand that you can; it would be a shorter term DTAN, but you could indeed do it.

LEG. KENNEDY:
Okay.

CHAIRMAN MONTANO:
All right.

LEG. KENNEDY:
I need to talk to Budget Review for a second on that because I'm seeing -- I mean, you guys -- all right, I'll yield back to the Chair. I mean, is that your understanding, Budget Review; do we still get to use the DTANs?

MR. LIPP:
Our understanding is that you would be able to do it for approximately three months, the way the deal that we're talking about is structured. And the good part and the bad part of the aspect is that it could potentially be done as a transfer from this LDC, this corporation, as opposed to having to go out to market, depending upon how much money they have. The bad thing is that instead of doing it for say nine months, you might only be able to do it for three months.

And also to note that we have a meeting this afternoon at the Treasurer's Office with the principal associated with this DTAN program that would purchase the delinquent tax liens and we're going to ask them these questions about whether or not you have the ability to do the 72-h's or deed the property back, that kind of stuff. So stay tuned.

LEG. KENNEDY:
Okay, thank you. All right, I'll yield, Mr. Chair.

CHAIRMAN MONTANO:
All right, thank you. Mr. Sawicki, you want to wrap up?

COMPTROLLER SAWICKI:
Yes, please. I know you may have a question about the refunding resolution which is different than 1307, I believe.

CHAIRMAN MONTANO:
We're going to take that out of order.

COMPTROLLER SAWICKI:
Okay, and Mr. Tortora I think would like to, you know, address the numbers.

But before, just in closing, I'd like to commend this body for taking up 1307 today. If it's possible, I don't want to sound like a Legislator like in my past years, but if it's possible that 1307 could be adopted and signed into law on your next meeting which I believe is the 29th, on the 30th we'll be meeting with the credit rating agencies and it sure would be a feather in our cap to show them that once again Suffolk, in an extremely bipartisan nature as we've always done for years, has addressed serious budget issues and financial issues and to show that once again I think would be a real -- again, a real plus for us.

CHAIRMAN MONTANO:
We're going to take that up today. Actually, there have been some amendments to 1307 that were just laid on the table, so we'll discuss that.

COMPTROLLER SAWICKI:
Thank you for your consideration of that, yes.

CHAIRMAN MONTANO:
Mr. Comptroller, Joe Sawicki, I want to thank you very much for coming in, it's been very informative. Mr. Tortora and the rest of the team, I want to thank you for, you know, your time. I know you've been before the committee before and I'm sure that we'll have you back on some of these issues, very important. I just want to thank all of you, you know, it's been very, very interesting, and I'm sure the committee feels the same way.

What I'm going to do now is just so everybody understands, I'm going to move to take 1302, the refunding Bond Resolution, out of order very quickly, and then I'm going to ask Counsel to do a brief explanation of the changes with respect to Resolution 1307 so that you're aware, and then I'm going to ask Cheryl Felice to come forward.

MS. FELICE:
Can I --

CHAIRMAN MONTANO:
Well, I'd like to have those --

MS. FELICE:
With all due respect, Legislator?

CHAIRMAN MONTANO:

Go ahead, Cheryl.

MS. FELICE:
Our members and the residents have been waiting here since nine o'clock and if it would please the Legislature, I would like to speak first before the explanation.

LEG. ROMAINE:
Let's hear from the people.

CHAIRMAN MONTANO:
Do you want to hear the changes of the resolution that --

MS. FELICE:
I would like to announce the changes to the members and then you can go into the actual resolution.

CHAIRMAN MONTANO:
Okay, then I will accommodate that. Cheryl, why don't you -- Mr. Sawicki, give me two, three minutes. Cheryl, why don't you come forward and maybe that will address some of the concerns, I know people have to leave, and this will only take about two or three minutes.

MS. FELICE:
You want me here or at the podium?

CHAIRMAN MONTANO:
Either way, Cheryl.

MS. FELICE:
Either way? If you don't mind --

COMPTROLLER SAWICKI:
You want to sit next to me?

MS. FELICE:
Oh, you want me to sit next to you?

COMPTROLLER SAWICKI:
Yeah, sure.

MS. FELICE:
Okay.

CHAIRMAN MONTANO:
Cheryl, have you received the latest changes, the ones that came in at 10:30 AM?

MS. FELICE:
Yes, Mr. Chairman, I did; I received them at 10:40 this morning.

CHAIRMAN MONTANO:
Okay. So then go ahead with your public comments.

MS. FELICE:
Thank you. Thank you so much. First of all, I would just like to say, again, my name is Cheryl Felice, I'm the President of the Association of Municipal Employees and I would like to extend my extreme thanks and appreciation to the Presiding Officer, William Lindsay, for taking the time to not only sit and talk with me at length, to sit and talk with our Legislative Director, Debra Alloncius, at length, but to take the time to sit and speak with the members who work at the John J. Foley Skilled

Nursing Facility.

I know a number of you have also met with the members of the facility and our goal today was to come here to not only save their jobs but to save the home in which the residents call home. There's over 250 residents who call John J. Foley their home and the residents deliver that care. When we were taken by surprise at being put up for sale without the benefit of sitting down with the members, sitting down with the front-line workers and most importantly sitting down with the residents to talk about what are some of the issues that are being discussed with J.J. Foley, what are some of the problems that you would like to see addressed. And just being told that this facility was going to be made for sale, our members quickly took action, they reached out to their union, we responded in-kind and we asked them to just go around to the Legislators and speak from the heart and they did. And apparently that was convincing enough because at 10:40 today, and when I came into the Legislature Presiding Officer Lindsay let me know that for IR Resolution 1307, all language for the sale of the John J. Foley Skilled Nursing home has been removed.

Applause & Cheers from Audience

We understand -- and that's a testament to the perseverance of the AME members of John J. Foley and the people who are here to support them. We know this doesn't take the issue off the table, we know what this has done is put a light on a facility that is probably one of the best facilities in Suffolk County. The John J. Foley Nursing Facility is not only a nursing home, it's a skilled nursing facility, it is a rehab center, it is an adult day-care center and a center that needs to be marketed better by this organization, by the County and we think having done that, the shortfalls that were presented to you over the last several years will quickly go away.

We were also -- we also need to give our appreciation to Chief County Executive Jim Morgo who spent the better part of this last week and the weekend on the phone with me after his meetings with Legislator -- with Presiding Officer Lindsay. And he has pledged, and my members need to hear this, he has pledged that we will sit down in labor/management cooperation to talk about what is needed for J.J. Foley and to see where we can go from here; he has made that pledge to us and I will accept that, we accept that invitation on behalf of Suffolk County Executive Levy.

Applause & Cheers from Audience

We'd also just like to make a comment to the good Presiding Officer. When we were faced with a very talented group who wanted to put together their signs to express their feelings and we were met with another group who had signs here at a couple of meetings ago and when the placards were removed or banned from this auditorium, we quickly put our heads together and said, "What can we do," and we made human placards, and I think you saw them here today. So appropriately, we asked you not to turn your back on us and we think that you have not and we are very appreciative of the work that we were able to accomplish here today.

We accept the challenge to sit with you in the future, we know there's a lot to do, so that we can deliver services to the County, the best in the country and we pledge to do it together with you. And I thank you for the time that you spent to come up with a resolution, a compromise measure for at least at this point, it gives us some time to take a look at a facility that really is something else.

And I thank each and every Legislator here who took the time to meet with our members, Legislators D'Amaro who sent us a letter, a very eloquent letter on how much he cares about the employees and the members of the facility. We really, really can do a lot if we stick together and work together and we're looking at this obstacle as an opportunity to work together. Thank you very much.

Applause & Cheers from Audience

CHAIRMAN MONTANO:

Thank you, Cheryl. I would imagine --

MS. ALLONCIUS:
Up, up.

Standing Ovation From Audience

MS. FELICE:
This may or may not change the number of members that want to speak to you or the residents, certainly some may still want to because they do feel so passionately about the facility. But nonetheless, I appreciate you taking me out of order and I appreciate that you gave us the opportunity to speak before Legislative Counsel. Thank you very much, Mr. Chairman.

CHAIRMAN MONTANO:
You're quite welcome. And thank all of you. I'm going to get back to the agenda and then if anyone wants to speak we will -- we'll move along. But actually, I think -- from what I'm looking at in the cards, I think what needed to be said has probably been said.

With that, I'm going to make a motion to take 1302 out of order and lay it before the body. I need a second.

LEG. KENNEDY:
Second.

CHAIRMAN MONTANO:
Second by Legislator Kennedy. All in favor? Opposed? Abstentions? Motion carries.

IR 1302-08 is before us, ***Refunding Bond Resolution No. 2008, Refunding Bond Resolution of the County of Suffolk, New York, Adopted March 2008, Authorizing the refunding of ceratin outstanding serial bonds of said County, stating the plan of refunding, appropriating an amount not to exceed $170,000,000 for such purpose, authorizing the issuance of not to exceed $170,000,000 refunding bonds to finance said appropriation and making certain other determinations relative thereto.*** Mr. Sawicki, would you or Mr. Tortora like to make a brief statement on this?

MR. TORTORA:
Certainly. Thank you.

COMPTROLLER SAWICKI:
I'll pass. I haven't seen it yet, so I'll pass to my left.

MR. TORTORA:
In the normal course of affairs, as interest rates change on a daily basis, our firm runs refunding analysis on all of the existing County debt to see if there's an opportunity to replace higher interest rate debt with lower interest rate debt. A couple of months ago debt that was originally issued in 1998, which itself was refunding debt, came into play such that under current market conditions we can refund bonds that were originally issued in 1998 as Series A, C and D, under current market conditions we could sell approximately $38 million in bonds, take those proceeds and refund, call in and pay off the outstanding bonds and the net effect to the County is a savings of about $1.8 million over the next 15 years, cumulatively. So it's an attractive refunding opportunity.

When we find refunding opportunities, one of the things we look for is that the amount of savings is equal to or in excess of 3% of the amount of bonds that we're refunding, that's a rule of thumb that the New York State Comptroller employs as well. We are required to have all of our refundings reviewed by the State Comptroller when we price them to make sure that, indeed, the savings are -- meet that threshold. So again, the opportunity that presents itself is for the County to advance refund three series of bonds under current market conditions to generate savings of approximately

1.8 million.

It's also important to note when we issue the new bonds to take out the existing bonds, we are not extending the term at all, we're not extending your debt and we're not generating any losses in prior years to generate savings in upfront years. So there will be a savings as structured in each and every year that these bonds are outstanding.

CHAIRMAN MONTANO:
All right. With that, I'm going to make a motion to approve. I need a second.

LEG. BARRAGA:
Second.

CHAIRMAN MONTANO:
Second by Legislator Barraga. Any discussion on the motion?

LEG. D'AMARO:
I'm just curious, one question.

CHAIRMAN MONTANO:
Legislator D'Amaro has some questions.

LEG. D'AMARO:
No, just very quickly. Where do we fall on this refunding with that 3% threshold? I'm just curious.

MR. TORTORA:
Good question. Presently the level of savings --

LEG. D'AMARO:
Since you brought it up.

MR. TORTORA:
The level of savings -- there's three separate series of bonds, one is approximately 3.4%, the next is 3.5 and the third is 3.8, so substantially above.

LEG. D'AMARO:
All right, so it's a good opportunity. Thank you.

MR. TORTORA:
Thank you for asking.

CHAIRMAN MONTANO:
Are you done?

LEG. D'AMARO:
Yes.

CHAIRMAN MONTANO:
Okay. With that, motion to approve is before us. All in favor? Opposed? Abstentions? Motion carries. ***Approved (VOTE: 7-0-0-0).***

With that, I want to thank you. I know you have another meeting. Thanks a lot and I appreciate your patience and your presentation.

MR. TORTORA:
Thank you.

COMPTROLLER SAWICKI:
Thank you, everyone.

CHAIRMAN MONTANO:
Okay, I'm going to move back to the agenda to the public portion. We have approximately thirty something cards but I know the room has been emptied. So what I'm going to do is rather than read the names, if you'll indulge me, anyone who wants to speak before the Legislature, could you just raise your hand? Okay, we have, what, three speakers? Four. Let me read the names; we had Cheryl Felice. Joseph Clemente?

MR. CLEMENTE:
Yes.

CHAIRMAN MONTANO:
Are you here?

MR. CLEMENTE:
I am here.

CHAIRMAN MONTANO:
Come here, Joseph. You have three minutes.

MR. CLEMENTE:
All right. Where do I go, here?

CHAIRMAN MONTANO:
Go right there to the podium.

MR. CLEMENTE:
Good afternoon. Members of the Committee, my name is Joseph Clemente, I'm a Suffolk County Taxpayer and I work at the John J. Foley Skilled Nursing Facility.

Okay? I know that we just heard some things that sounded positive from Cheryl Felice, but I'm a skeptic, okay, and I don't think this issue has gone away and I'm not going to let people get complacent because of it. Just the fact that Steve Levy is so enamored of this idea to get rid of the nursing home, okay, that's why I'm continuing with my presentation here today, okay?

Since 1870, Suffolk County has been providing health care services to the most needy and underserved members of the community; the elderly, the sick and the disabled. The John J. Foley Skilled Nursing Facility has been striving to meet the needs of these unfortunate souls, despite a distinct and deliberate lack of support from our County Executive, Steve Levy. He has called the facility, and by extension its staff and residents, a burden and a financial drag for Suffolk County. Well, I wish Stevy Levy all the best and I pray that he is never made to feel like a burden because of old age or poor health.

Under the guise of protecting County taxpayers, Levy wants to sell off or privatize this fine facility, put over 300 dedicated health care professionals on the unemployment line and evict over 250 residents from their home. Make no mistake about it, nobody but Steve Levy would benefit from this course of action. This is political grandstanding at its worst.

In Resolution 1307, Levy tells the public that the nursing facility has cost 58 million over the last seven years, in the same resolution he states that it incurs a $12 million net annual loss, then in a Newsday article on March 31st, he quotes a 12.6 million annual loss; clearly, these numbers just don't add up and I expect them to keep growing as Levy continues his public relations blitz on the staff and residents of the John J. Foley Skilled Nursing Facility.

Steve Levy won't tell you where his numbers come from and he won't tell you what they mean to the average taxpayers. I would urge all taxpayers to actually look at the County portion of their tax bill, they'll see two numbers, one big and one small. The larger number represents our tax contribution to the Suffolk County Police force, the smaller one is typically under $100 per year and represents our tax contribution for all other County services combined. There are approximately 8,000 Suffolk County AME union members and only 300 of them work at John J. Foley Skilled Nursing Facility, so what percentage of $100 does it actually cost to keep this valuable County service afloat? I could only tell you that it's a small number and we believe that it costs the average taxpayer considerably less than $12 per year.

A petition was started about two weeks ago by a handful of people in order to clear up some misconceptions and garner public support against the sale of privatization of the facility. We have provided each member of the Budget Committee with a partial copy of the petition.
I would also like to add that the public sentiment has been overwhelmingly positive and that there will be many more signatures on that petition by the 29th of this month

CHAIRMAN MONTANO:
Joe, your time is up.

MR. CLEMENTE:
Thank you very much for your time.

CHAIRMAN MONTANO:
Thank you. All right, I have Dot Kerrigan; is she here? Emily Profeta?

MS. PROFETA:
That's me.

CHAIRMAN MONTANO:
Did you want to speak, Emily?

MS. PROFETA:
Yes.

CHAIRMAN MONTANO:
Go ahead, you have three minutes.

MS. PROFETA:
As you know, I'm also a taxpayer and I was all prepared to say to oppose the selling -- oh, I'm sorry. Oh, my God, I'm not really good at this because I never used one of these. I really have a loud voice to begin with. Okay, I was ready to start to say I'm a taxpayer and I strongly oppose the selling of our facility, but since you already took it off the table, but it's still going to be in future, so I'm really opposed to selling and selling and selling, all right, or privatizing it.

I have been employed by the County for 24 years, all right. I started working for the County as an LPN and the County put me through school and I became an RN, all right? And then I worked part-time for the County and now, as of the year 2001, I became full-time. I do the in-service in the facility and we have over 354 employees and they're all caring and they're all concerned about their residents, believe me, I know because they come and tell me about different issues that happen during the day. And if Mr. Levy knew about the facility was in debt, what has he been doing to help us, his management? If it really is management then he should take our management and get a better management so this way we can make the money. We do have the departments that we have inside --

Applause

-- that do not really know what they're really doing like Medicaid, Medicare, so we need a professional that understands how to do the correct billing and this way he will not privatize it or sell it.
The first sign of financial debt is really to make the correction which has to be done, all right.

We have residents that are really concerned, the families that are really concerned and right now we do not have admissions because of what happened to be publicized in the paper. We have beds, 264 beds, right now we probably have two hundred and thirty-something residents and our admission has been halted because of everything that has been in the paper, all right? Our families know that we're really concerned about what happens to them, they come to us with any kind of issue concerning their loved ones. I had been at the old infirmary, I know the millions of dollars that they spend in refurnishing that old infirmary, all right. If they had done that to begin with to preserve the old infirmary to be what we have now, then we wouldn't be in such big debt, all right.

Applause

The new one was opened in 1995 which this year it is 13; what is it, a lucky 13? A lucky 13 would be that it would probably continue to go on and on and on and not to be sold, all right? Every day -- I can honestly tell you that every day I hear a resident come up to me and say, "Did they sell yet?" Or they say, "Do we have to move," or, "Where am I going to live?" And I have no answers, I as a taxpayer don't have answers, all I can say is, "This is your home for now."

CHAIRMAN MONTANO:
Emily, I'm sorry, your time is up. Could you wrap up quickly?

MS. PROFETA:
All right. I'm sorry, but it took --

CHAIRMAN MONTANO:
Go ahead, wrap up.

MS. PROFETA:
All right. Then I'll tell you our responsibility as RN's. We -- I am an RN, all right. Our nurses are caring, they do treatments, they do medications, they do changes in the facility, we do a lot. We're not a nursing home, we're actually a skilled facility and we do a lot of rehab. So we really have to be, like we were saying before, we really have to be marketed as a skilled and rehab facility. That's all I have to say.

Applause

CHAIRMAN MONTANO:
Thank you. Do you have a question?

LEG. BROWNING:
Yes.

CHAIRMAN MONTANO:
Emily, don't leave. Emily, we have a question from Legislator Kate Browning.

LEG. BROWNING:
Hi, Emily. You did come to see me and I believe -- you said you worked at in-service?
MS. PROFETA:
Yes.

LEG. BROWNING:
And how many people work in in-service?

MS. PROFETA:
I have two, myself -- well, I'm a grade 19 and I have somebody that's a grade 22 that's above me. So in other words, I have always worked by myself and then they -- what happens is management has made positions for other people, so we have like a lot of Grade 22's.

LEG. BROWNING:
Okay, but my question is -- because I believe what you had said to me was you're the only one who does what you do, but you have two supervisors above you?

MS. PROFETA:
One, one supervisor above me.

LEG. BROWNING:
So you have you and the supervisor above you.

MS. PROFETA:
Right, right.

LEG. BROWNING:
Sounds like a waste of money.

CHAIRMAN MONTANO:
Thank you.

MS. PROFETA:
Thank you.

Applause

CHAIRMAN MONTANO:
Is Deborah Kelly here and does she want to speak? Christine Destio?

MR. DESTIO:
Yeah, I'm here.

CHAIRMAN MONTANO:
Do you want to speak?

MR. DESTIO:
Yes.

CHAIRMAN MONTANO:
Your back -- back her up. Is that Deborah at the podium?
All right, Deborah, then Chris is on deck.

MS. KELLY:
Good afternoon.

CHAIRMAN MONTANO:
I'm going to hold you to three minutes, okay?

MS. KELLY:
My name is Deborah Kelly, I am an employee for the County of Suffolk at the John J. Foley Skilled

Nursing Facility in Yaphank. I am here on behalf of our residents -- past, present and future -- and my fellow coworkers at John J. Foley. We are here in opposition to County Executive Steve Levy's comments regarding the possible sale of our County facility.

John J. Foley Nursing Home offers quality care to the residents of Suffolk County and peace of mind to their families members. We all face at some point in our lives the heart-wrenching decision of how to best care for our loved ones. In the midst of crisis, we'll have been comforted in knowing if we choose to admit our loved ones to a nursing facility, it would be a local facility that we may visit and assist in our loved one's care and a facility that is financially attainable.

By selling John J. Foley, we would potentially displace hundreds of residents who call our facility home. Our residents are moms and dads, sisters and brothers and neighbors who are in the neediest time of life. They have worked their entire life and deserve the quality of care they receive at our facility. Although selling this facility may minimally help the budget, our most helpless and needy citizens of Suffolk County will suffer additional hardship.

For over 20 years the people of Suffolk County have rendered loving care to her most needy and helpless neighbors. Are you going to be the Legislative Body that stops caring for the people who needs -- whose need are the greatest? These patients suffer the most horrendous and debilitating diseases such as Alzheimer's, Dementia, terminal cancers and other affirmities. How could we in good conscience consider such a proposal?

I urge you to seriously consider the effects this decision will have on our current residents, their loved ones and those who unfortunately will follow in their wake. Look into the eyes of these residents as I have done before rendering a decision. Please don't lose site of compassion or disregard the muted voice of the most helpless as you deliberate the budget. This is not the first time County Executive has brought up the issue of selling this facility; let's make it his last. Let's all be good neighbors and say no to Mr. Levy's proposal to sell out the weak and helpless. Please tell Mr. Levy, "Not this time. You do not get my vote on this proposal." And we will not relent in prosecuting the defeat of this unconscionable proposal. We will endeavor to inform all people of conscience through every means possible for as long as it takes to put this threat to rest.
Thank you.

Applause

CHAIRMAN MONTANO:
Thank you. Chris?

MR. DESTIO:
Hi. My name is Chris Destio, I'm an employee at the John J. Foley Skilled Nursing facility, and I thank all the Legislators today for having me up here.

First I'd like to say thank you to all the Legislators that took out the time from their busy day to speak with us employees and family members in the recent weeks, and we have more upcoming meetings with the Legislators in the following weeks. We shared our thoughts and concerns with you and tried to inform you about our facility the best way we know how. In return, some of the Legislators gave us insight on some of their ideas and I must say, some were very impressive. Our main goal is that we try to impress on you that there are alternatives to this and it's not selling our facility or laying off 300 plus County employees. If we had the right tools we can run more efficiently and if we were marketed in the right way we can be just as competitive as the private sector. So why can't County Executive see it this way? Why can't we put these ideas that our Legislators have and our employees have and try to make them work and why weren't these ideas put first? It just brings us deeper into this hole here.

The means we have been going to with the Legislators were a small handful of employees and family members. That doesn't mean we don't have our resources. Our resources are a million and a half Suffolk County residents that live here and we will tap into every resource, if needed, to save our facility and our jobs. This is not over and this will never be over and all the Legislators here know this to be fact. A home that you can be ejected from any time is not a home; that's what our residents face every time this is brought to the table and this is what our County employees face every time this is brought to the table also. Besides being old and sick and disabled, is this fair to put this unneeded burden on them and the families also?

I feel most of the Legislators here are on the same page as us and know that this should have never been made -- brought to the table. Even as a study, this has disrupted our residents' lives as well as County employees here who are wondering if we can make our next mortgage payment. Once again, I look forward to meeting with the Legislators we have not yet met and follow up reports on the ones we have seen already. Thank you.

Applause

CHAIRMAN MONTANO:
Michele Bernstein? Thomas -- Michele is here? Yes, come on up. Thomas Dean, are you here? Come on up, you're next, if you want to speak.

MR. DEAN:
I'll speak.

MS. BURSTIN:
My name is Michele Burstin and I am employed as a social worker at John Foley. Good afternoon to all of you and thank you for allowing me the opportunity to speak.

At John J Foley Skilled Nursing facility and Rehab Center we provide services to a diverse and complicated population. Our residents range in age from 18 to 101 years old with a myriad of medical, psychiatric and psychological conditions. We have many individuals with psychiatric and psychological issues which make it difficult for other facilities to accept them based on their behavioral issues. Many facilities will not accept such individuals who are on psychotropic medications; this is one of the reasons why John J. Foley is a facility of last resort. We're a County facility and, therefore, receive individuals from private facilities that will not accept APS referrals, behavioral issues and the agitated Dementia population.

After consulting with my colleagues, approximately 45 residents have been identified and considered chronic behaviors. Mr. Levy wants to privatize our facility and based on the above, where would our residents go? I am unsure as to whether Mr. Levy has ever been to John J. Foley, however I do urge him to come to visit our residents face-to-face and discuss their uncertainty and the future and increased anxiety with them. How can you consider this without knowing the population that we serve and who is exactly affected?

Although this proposal may not directly affect any of you in the immediate future, it may directly or indirectly affect you in the future. We cannot predict our futures and many of our residents at John J. Foley never imagine being in a skilled nursing facility, however, the economy does not allow them to go wherever they choose. For example, I have a 40 year old resident with Multiple Sclerosis with personality disorders who requests to be closer to his family in Nassau County. I have sent approximately 45 PRI's and request nursing homes within the Nassau and Suffolk Counties and not one of those facilities had accepted him; this is only one individual out of 264.

These residents with ongoing behavior management concerns consist of the following variables; non compliance, mentally ill and substance abuse individuals with poor or no natural supports. John J. Foley serves the younger population with an average age of 42. Fifty percent under the age of 55 with a 10% increase of the two years -- over the past two years. Our younger population is alert, social, sexually active with emotional issues, some have substance abuse histories and several were homeless. Based on this, John J. Foley has become their home, many of whom never knew what a home was. They now have the stability and consistency in their lives that they never had and now they deal with increased anxiety over whether this stability will be taken away. This causes increased psychological issues which means they need to be referred to psychiatry and psychology for therapy to help manage their heightened anxieties. This can be thought of as being equivalent to the fear of the unknown; that is extremely scarey for someone who is alert and aware of their surroundings. Wouldn't it be beneficial to be able to receive any needed care in your own backyard.

CHAIRMAN MONTANO:
Before you leave -- don't leave, don't leave.

Applause

LEG. BROWNING:
Michele? Michele?

CHAIRMAN MONTANO:
Michele?

LEG. BROWNING:
Michele, can you come back?

CHAIRMAN MONTANO:
Michele, could you come back to the podium? I'm sorry, we had some questions. Legislator Romaine and then Legislator D'Amaro had some questions for you.

LEG. ROMAINE:
One quick question. Based on your statement, you would seem to say that it would be difficult to place some of the patients should the nursing home be sold in other facilities.

MS. BURSTIN:
Uh-huh.

LEG. ROMAINE:
Now, the County Executive said just the opposite. But based on your experience, would it be difficult to place some of the patients in other facilities?

MS. BURSTIN:
Yes, very difficult. We've actually been trying to do that now and nobody is accepting them. I just told you about that 40 year old.

LEG. ROMAINE:
Right, so the Executive's statement may not have been exactly accurate.

MR. BURSTIN:
I don't agree with it.

LEG. ROMAINE:
I just want to state that for the record. Thank you.

Applause

CHAIRMAN MONTANO:
Legislator D'Amaro?

VICE-CHAIR BROWNING:

Legislator D'Amaro has a question.

LEG. D'AMARO:
All right, thank you. Just a very quick question, similar to what Legislator Romaine was talking about. You know, there are many issues about this facility, not least of which are, you know, employees and patients rights and how do we deal with the patients. But one of the questions that I always asked from the first time that I've heard about any proposal relating to the skilled nursing facility was does this facility service any population that could not be serviced by another facility?

UNKNOWN AUDIENCE MEMBER:
Yes.

LEG. D'AMARO:
And what I'm hearing from you today is the answer to that is yes?

MS. BURSTIN:
Yes.

UNKNOWN AUDIENCE MEMBER:
Yes, absolutely.

LEG. D'AMARO:
And I just need to -- just please indulge me; I got it. Because I am just as concerned about this as all of you are. It's not the only concern I have but, you know, one thing that we can't do for sure is have someone in Suffolk County left with no access and no option.

MS. BURSTIN:
And that's what --

LEG. D'AMARO:
Okay. So tell me specifically what population that is in layman terms, if you don't mind, where they would we turned away, for lack of a better word, at another facility but yet Foley would open its arms and say, "Yes, you can always come here."

MS. BURSTIN:
The young population with psychiatric personality disorders, someone that's on Adavan, psychiatric.

UNKNOWN AUDIENCE MEMBER:
Schizophrenia.

MS. BURSTIN:
Schizophrenia.

UNKNOWN AUDIENCE MEMBER:
HIV.

MS. BURSTIN:
HIV -- Oh, I'm sorry, thank you. If I could just say just quickly, we have a 12 bed HIV unit and I know that one of our residents who's here today had met with someone last week. We have a 12 bed HIV Unit, no one will take them, we're the only facility in Suffolk County that will house them. A Holy Patterson in Nassau County is our equivalent, I believe they have a 20 bed facility, so that means for 32 -- there's 32 open beds, HIV beds within Nassau and Suffolk County, where are all -- there's more than 32 people with HIV, and plus you're talking about psychiatric conditions, personality disorders; nobody will take them. I'm in social work, we're the ones that send all the PRI's out, no one will accept them.

LEG. D'AMARO:
And just to follow up --

MS. BURSTIN:
And I've been there for nine years.

LEG. D'AMARO:
Yeah. When you say nobody will take them, I don't -- I do not know enough about the business to know what that really means; does that mean that that's in violation of some kind of State law? Does it mean that they should be taking them but will not? I mean, what does that really mean?

MS. BURSTIN:
Well, actually, the HIV unit, I'm not financial so you can't quote me on this, but I believe they're are about 10,000 -- $6,000 more per month to house them at John J. Foley because the medications are extremely expensive. Does that answer your question?

LEG. D'AMARO:
So a private facility would have the option, as far as you know. I mean, there may be rules and regulations that limit or prohibit those options, but as far as you know, the more expensive cases that are not covered by insurance, private pay or insurance, may have a likelihood of being rejected at a private facility whereas such is not the case at Foley.

MS. BURSTIN:
Yes.

LEG. D'AMARO:
Okay.

MR. BURSTIN:
And in reference to the HIV population again, we have an approved 12 bed facility; I don't believe anybody else -- well, I don't know, don't quote me, but I don't believe any other facilities in Suffolk or Nassau County can house them.

LEG. D'AMARO:
Okay. Thank you, Mr. Chairman.

VICE-CHAIR BROWNING:
Okay, thank you.

MS. BURSTIN:
Okay? Thank you.

Applause

VICE-CHAIR BROWNING:
Okay, thank you. Thomas Dean and next is William Williams. Oh, did somebody want to say something?

CHAIRMAN MONTANO:
Legislator Barraga wanted to make a statement, so we'll indulge.

LEG. BARRAGA:
Just a quick comment with reference to the previous speaker and the discussion. I've had quite a bit of experience over the years with reference to psychiatric institutions and nursing homes and often the type of problem will necessitate whether or not a nursing home really wants that patient. I mean, if it's a high intense patient that requires a great deal of time and effort, a private nursing

home, they would rather have a 75 or 80 year old Medicaid patient who's suffering from Dementia, they don't want HIV, they don't want a schizophrenic.

Applause

Those individuals years ago would be housed at a Pilgrim State or a Kings Park; those facilities are no longer available. And a lot of it has to do with bottom line dollars, that's what it comes down to.

MS. BURSTIN:
Thank you.

CHAIRMAN MONTANO:
Okay, thank you. We have Thomas Dean, three minutes. William Williams; is he here?

UNKNOWN AUDIENCE MEMBER:
He's coming.

CHAIRMAN MONTANO:
Is he going to make a statement? Go ahead, Thomas.

MR. DEAN:
Thank you. I'm a nurse, I work at John J. Foley. I've been here before, I've invited many of the Legislators to come out to John J. Foley, some have come, some have seen it for themselves. It's a place -- there's no other place on the planet like it. The average age is 42. The people that fall through the cracks we catch and that's just a fact.

Just a brief story. A 21 year old, no insurance, mother and father lived in the area, she got involved with drugs, she overdosed, she stroked-out. She had no insurance, she went to the hospital and she got stabilized, John J. Foley took her. She couldn't walk, she couldn't talk, she's couldn't feed herself; she's now walking, talking, feeds herself, she's in the adult day-care. Without John J. Foley, she would have ended up in New York City someplace in some nursing home with a G-Tube and probably died at the age of 24. These are the people that we take care of, it's done on a daily basis. Again, I invite you all to come out there and see for yourselves, because unless you see it, there's no way to describe it, and that's the only way you're going to do it is by coming out to see it. Thank you.

Applause

CHAIRMAN MONTANO:
William Williams.

MR. WILLIAMS:
My name is William Williams, I'm a resident at John J. Foley as well as Ms. Williams. I would like to say I don't like the landlord coming to give you -- put you out, so I hope that dont' happen. So thank you.

CHAIRMAN MONTANO:
You're welcome, Mr. Williams.

Applause

Judy Gallina; if she's here.

MS. GALLINA:
Yes.

CHAIRMAN MONTANO:
And Joan Benkenstein; are you going to speak?

MS. BENKENSTEIN:
Yes.

CHAIRMAN MONTANO:
Okay, you're up next. Go ahead.

MS. KERRIGAN:
I'm not Judy Gallina, she gave me her spot. I have passed in a card.

MS. GALLINA:
I'm giving her my spot because she works there.

CHAIRMAN MONTANO:
I'm sorry?

MS. KERRIGAN:
I passed in a card to speak but I didn't get it back.

CHAIRMAN MONTANO:
All right. Put your name on the record and you have three minutes.

MS. KERRIGAN:
My name is Dot Kerrigan, I'm an employee of Suffolk County. I want to thank the kind and caring members of this committee who met with us and understand our concerns. We also would like to thank those of you who came to the facility, took the time out of your busy schedules, we really do appreciate it. We look forward to meeting with you all again and those of you who we have scheduled in the near future, and we hope the issue of closing John J will not come up again. Thank you so much.

Applause

CHAIRMAN MONTANO:
Thank you. Please go ahead.

MS. BENKENSTEIN:
Hi. My name is Joan Benkenstein. I'm a family member, I have both my parents at John J. Foley, they've been there for five years. I've had my husband here for rehab. My parents are in the same room together. I brought them there because my husband did very well and they needed skilled care. I took care of my parents for over three years and could no longer do it because of health issues. John J. Foley is family to them, to me and I wouldn't want to see them close. That's it.

Applause

CHAIRMAN MONTANO:
Thank you very much. Anthony, believe it's Leotta. Cameron Charles? Edward Schultz? Is Cameron here? Cameron, go ahead,

MR. CHARLES:
Yes. First of all, I'd like to say thank you to everybody in rehab because just remember these two words, coma and pizza. Pizza is my name and I've been there in a coma for five and a half years, but I've lived there for eight. But I don't understand this. If he wants to do something, Levy, let him change the name to a rehab. Have a good day.

Applause

CHAIRMAN MONTANO:
Thank you, Cameron. Edward Shultz.

UNKNOWN AUDIENCE MEMBER:
This is a patient of John J. Foley and she would like to speak.

CHAIRMAN MONTANO:
I'm sorry, what was that ma'am?

UNKNOWN AUDIENCE MEMBER:
This is a patient of John J. Foley, she would like to speak.

CHAIRMAN MONTANO:
Okay. Well, let me get through the list first and then we'll have her speak. Edward Shultz, is that you?

MR. SHULTZ:
Yes, sir.

CHAIRMAN MONTANO:
Go ahead. Do we have a John Elienberg? You're on deck.

MR. SHULTZ
My name is Ed Shultz, I'm a family member, both my parents are in John J. Foley. I've been a Suffolk County resident for 34 years and frankly I'm beginning to be embarrassed to say that. County Executive Steve Levy is trying to perpetrate a dispassionate and despicable act of cruelty in his attempt at discarding, or as Webster's Dictionary states, getting rid of our Suffolk County residents and family members who, through no fault of their own, have become victims of old age, disease, accidents which, of course, could happen to any one of us.

Mr. Levy's revolting and repulsive resolution, if accomplished, will heroically save the taxpayers minute amount of monies individually. These residents are living, breathing, helpless victims who possess emotions and have made lifelong friendships and fellow residents and staff alike who do more than what is necessary and are an exemplary example of what employees of this nature should be like in our tribute to Suffolk County. Mr. Levy wants to redistribute the residents to whoever will take them, possibly into substandard facilities which I wouldn't put my parakeet in. Imagine the hardship on the family members and the residents alike; haven't they been hurt enough?

Suffolk County started this home about 15 years ago and it has the responsibility to see it through. Imagine if we all shrugged off our responsibilities in this manner. There are many other ways to save money and make money. Foley is a service, not a business. The Police Department is a service; should we get rid of them too because it costs us money?

Applause

John J. Foley houses Alzheimer's patients, it's a terrible, incurable mental disease; we can all get this disease. It's a medically proven fact that when an Alzheimer's patient is removed from their familiar surroundings, regardless of their quality of care, that person's mental condition deteriorates at an accelerated pace.

Applause

In this country, any person who is responsible for the physical or mental harm of another human being is guilty of a crime and is legally liable for that action, whether it be an outright street mugging or a legislation that is responsible for the deterioration of a person's health.

I am a high-ranking officer in a volunteer fire service of Suffolk County and I'm involved every day in a network of over 110 fire districts which contain over up to 125 families a piece. Between firefighters, their spouses, siblings of voting age, friends and coworkers of their employment, I am personally influential with a lot of potential voters through our Internet grapevine. We will remember those Legislators that support Mr. Levy's attack on our less fortunate citizens and our family members and I will be around to remind them. I'm retired, I have the time, the desire and the tenacity to continually remind these voters at election time. On the other hand, I promise to have the same tenacity and the same gratitude in reminding my brotherhood which Legislators oppose Mr. Levy's heartless resolution.

Applause

CHAIRMAN MONTANO:
Thank you very much, Edward.

Applause & Cheers from Audience

John? John Eilenberg? Can you reach, John?

MR. EILENBERG:
Good afternoon. I'm a patient of John J. Foley Health Facility. There's a lot of patients in our home that are worried about where they will go. I have to comfort them and I say that I will bring this matter up to Steve Levy and the Counsel on the board. They enjoy themselves very much. They have activities and everything comes before them. And Steve Levy, you said that you are going to close the John J. Foley, this and that, but remember, it is a great pleasure to keep John J Foley open and not, not close it --

Applause

Because where would the people go? The people who have no arms or legs and their home is John J. Foley. The nurses do a wonderful job and all the nurses also and the aides. Where can we get the help from John J. Foley other places? We might have to start over again. I am a pastor for 48 years and I comfort the residents at John J. Foley and when I go back I can report to them what goes on at the Legislature and I like to have a copy of your statement where I can read it to the residents and to the employees. I thank you.

CHAIRMAN MONTANO:
Thank you, John.

Applause

Dr .Margaret Garland; is she here?

UNKNOWN AUDIENCE MEMBER:
No.

CHAIRMAN MONTANO:
William Williams, did we call you already?

MR. WILLIAMS:
Yes.

CHAIRMAN MONTANO:
Okay. Gil Tennant?

UNKNOWN AUDIENCE MEMBER:
He's not here.

CHAIRMAN MONTANO:
William T. Harris; do you want to speak, William?

MR. HARRIS:
You know, I was hit by a hit and run driver. I would probably be in that category as a substance abuser and coming from a broken home. And, you know, I was here this morning and I was just watching, you know, in the elevator, it has a long history of helping people like me. I can't understand, they just spent $200 million for the criminals next door and they can't find enough money --

Applause

-- to help the down-trotting people like me and Peaches. You know, I'd hate for you to be the legacy of ending that long history of them helping people like me in Suffolk County; you can't put a dollar figure on that. So the people here are wonderful, they really help me. I'm really grateful and I would like to see this continued. So I thank you for your time.

CHAIRMAN MONTANO:
Thank you, sir.

Applause

William T Harris.

MR. HARRIS:
Right here.

CHAIRMAN MONTANO:
Do you want to speak? Oh, you did already, I'm sorry. Jeanne Melnik? Are you Janni -- the same person, Jeanne?

MS. MELNIK
Jeanne, Jeanne.

CHAIRMAN MONTANO:
Go ahead, because I have two cards here. And again, I just want to remind everybody, I know you want to make your statements and we want to listen, but understand, as your Union President said, the John J. Foley issue has been taken out of the bill that's before us today.

UNKNOWN AUDIENCE MEMBER:
Yeah, before us today.

CHAIRMAN MONTANO:
For today, I just said today; it's been taken out of the bill that's before us today and we're aware of that.

UNKNOWN AUDIENCE MEMBER:
You might have closed it for today.

CHAIRMAN MONTANO:
Do you have enough room there, Bob?

MR. MARTINEZ:
Yes.

CHAIRMAN MONTANO:
Go ahead.

MS. MELNIK:
My name is Jeanne Melnik, I've lived at John J. Foley for seven years and I want to remain in my home which I have come to love. I have made a lot of friends which I consider family. There are some elderly patients that have no family at all, but the CNA's and other residents are their only family.

At John J. Foley I have the freedom to go outside when I want, I take the SCAT bus to the mall, other facilities may not allow that freedom. The people at John J. Foley have been taxpayers and voters for most of their life. Is this their reward, just because they have become elderly or disabled, to be uprooted from their home without absolutely no say. We are not just numbers or pawns, we are human beings. I say a prayer for all of you to never find yourself in our position. Thank you.

Applause

CHAIRMAN MONTANO:
Thank you, Jeanne. Jennifer Tay? Jennifer, go ahead.

MS. TAY:
Good afternoon. Thank you. Hopefully that -- that's great, that's great that he took it off. Some of the problems that have hit our facility have a lot to do with the way things have been written in newspapers, what Mr. Levy has continually said that we've used our residents as pawns. I wrote a letter to Mr. Epstein at Newsday on April 6th which still goes unanswered; that's a lot of the problem, we have no answers. I'll just read it to you,.

"I'm writing in response to your 3/31 article "Levy Pushes to Close Suffolk's Nursing Home". I take issue with your statement that our staff paraded some residents in wheelchairs in front of television news cameras during a demonstration at our facility, as well as inferring that our staff have coached them on what to say. On March 24th, 2008, several John J. Foley employees gathered outside of the entrance, off the grounds of our facility to protest the sale proposed by Steve Levy, County Executive. A peaceful demonstration took place, News 12 reporters interviewed our staff. At the same time, several of our wheelchair-bound residents had formed their own demonstration on the grounds of the facility, News 12 reporters interviewed the residents."

"With regards to the staff at John J. Foley, your comments are an insult to the integrity of the many professionals that work in servitude at this facility. Not only are you ignorant of the facts but you have also misguided the public and slandered us. Those residents pictured in Newsday and on News 12, the ones you just saw, are among the few of our resident population who are able to speak for themselves. I'm proud of them for voicing their concern and performing a demonstration, I commend them for exercising their right to free speech and free will. To think that we the staff have in any way influenced their actions disempowers them, this is not what nursing is about. As a journalist, you have a responsibility to report accurately and honestly."

"I respectfully request a retraction of the statements and inferences made regarding the staff at John J. Foley and an apology to the residents for attempting to save their home. What little hope they had in letting their voices be heard was dashed by your insensitive comments. The staff at John J. Foley treats each person with respect. Just because their mobility is limited, they are objects that any of us would parade around. Thank you for your time and attention."

I really hope that the news reporters and that Mr. Levy will turn it around and get something out into the papers that really speaks the truth of what we are as nurses and the sacrifice that we have taken to work as County employees at a lower salary. We can all be going to get higher salaries but we take it as a mission to take care of the poor and the disabled --

Applause

-- who have nothing; we truly are their family. I'm proud that Willy can speak, I'm happy that he can wheel his wheelchair out there. And I kind of think my 80 Dementia residents who are many in recliners, if they could, they would have been out there, but we don't push them.

CHAIRMAN MONTANO:
Thank you, Jennifer.

MS. TAY:
Thank you.

Applause

CHAIRMAN MONTANO:
Thank you.

Applause

Michele Mahoney, is she here? And Gail Singer? Snyder, I'm sorry.

MS. MAHONEY:
Hi. My name is Michele Mahoney and I work at John J. Foley for 12 years. I work in the recreation department and I have to say that in the recreation department, we actually go from nine in the morning to nine at night. We have many, many programs, unlike other facilities that have very little. We try to keep the residents happy with parties and -- I don't even know what else to say. I just -- you know what? Each resident I know personally and they know me and you go in there and you know your family, and to take that away just kills me, you know. So it's like taking away my grandparents. Just don't allow it to happen. Thank you.

CHAIRMAN MONTANO:
Thank you. We get it.

Applause

Gail? Hi, how are you.

MS. SNYDER:
Hi. Good afternoon.

CHAIRMAN MONTANO:
And if we have Patrice Rollings next? Patrice, come on up, you're on deck. Go ahead, Gail.

MS. SNYDER:
My name is Gail Synder and I've had -- I'm the Infection Control Coordinator for the John J. Foley Skilled Facility. Also, some of my duties are the PDP Coordinator for the insurance and I'm the Employee Health Officer, okay? I've had a long career in skilled nursing facilities and nursing homes since 1979, I've worked from Queens to Suffolk County; my employment with the County has been since 1983.

I have been with this skilled nursing facility from the days of the Suffolk County Infirmary to the present days of John J. Foley.
As a nurse I have read Mr. Levy's statements regarding the scale -- the sale of John J Foley and the residents will be placed in private skilled facilities in our area. Mr. Levy fails to address the dedicated AIDS/HIV beds that John J. Foley has opened at the facility. When the facility was first opened we had 24 dedicated AIDS beds, this means that no other patient of any kind of other diagnosis can be placed in these beds, only the AIDS or HIV patients can be placed there. It has since been shipped down to 12 dedicated beds; these are the only dedicated beds in Suffolk County that I'm aware of, that no other nursing home has dedicated beds that will only place HIV/AIDS patients.

John J. Foley has always done the best for this population. I ask you -- we've had extremely high standards for the care of this population. Mr. Levy states that he will find other skilled facilities for John J Foley's residents. John J. Foley has always opened its door to the more complex, difficult residents such as diagnosis of traumatic brain injuries, end-stage Multiple Schlerosis; these residents require integrate time-consuming care that the private sector shies away from due to these patients not being cost effective for their facility. As.
As I have stated, my nursing career has been long and John J. Foley has a long history of delivering excellent care to the residents of Suffolk County.

I would also like to remind you that these residents have had -- have been long-term taxpayers of this County. These people have added to the history of our County. I would like to ask Mr. Levy in saying that John J. Foley is not able to make money on these people so the County no longer has an obligation to keep them, house them, care for them for the sick and the infirming.

Closing, I feel that closing John J. Foley's doors to these patients is saying that you are no longer able to make money for us so it's time to say good-bye, which is not fair.

Applause

CHAIRMAN MONTANO:
Thank you. Patrice Rollings.

MS. ROLLINGS:
Good afternoon. My name is Pat Rollings, I've been a dedicated CNA at John J. Foley for over 20 years. I am a mother of two young children, a homeowner, a registered voter and a Suffolk County taxpayer.

I take exception to Mr. Levy's statement that our facility is not unique. I don't know how many nursing homes Mr. Levy has worked in, but I've worked in several. John J. Foley Nursing Facility is not just a nursing home, for many it's a rehabilitation center; it allows a resident to get back into the community. Our day-care allows our aging population to live with their family while their family can go out and work. John J. Foley is a community where our residents can live their lives. Most of our long-term residents have experienced other facilities and John J. Foley has become their home.

I would like to take a moment to tell you about one of our most demanding residents, I'll call him Dock. Dock served in the Vietnam War. Some time after he returned to the states he got into a terrible fight. His head injuries were so severe, Dock was a quadriplegic and unable to speak, but wow, could he yell and yell and yell and yell. Dock had a lot to be angry about, yet we knew he appreciated being alive. Our facility was able to get him a computer and a speaking machine; we gave Dock back his voice. Suddenly we heard a very, very intelligent man with a heart of gold.

In the early 1990's, Dock's entire family moved to Pennsylvania. They found a nursing home in the area for him; Dock refused to go, he wanted to stay with us, we had become his family. In

December, 2005, Dock became very ill. Two days later, on Christmas Eve, the hospital called said that Dock was not going to make it. I got a call at home from a coworker; my day stopped. I shut off my turkey, I got a babysitter for my girls and I immediately ran to the hospital. I told Dock how much he was loved, I rubbed his arm and cried by his side; remember, it was Christmas Eve. When I left, another CNA, Cathy {Embleton} went to be with him, and when she left Jack {Leon}, another one, came to Dock's side.

In my experience with nursing homes, the staff does not visit a resident in the hospital, never mind on Christmas Eve. Dock died on Christmas morning. And because John J is a 24-hour facility, and although I had seniority of 20 years, I was scheduled to work that day; I could not go call in sick, we were already at minimum staff. I went to work that day not thinking about leaving my children on Christmas, my thoughts and my heart was with the other family, my family at John J and the loss of Dock, someone we very truly loved.

It was the most difficult day in all the years that I worked there. As awful as that day was, I wouldn't change it, for as much as I have done for my beloved Dock and so many others, I have gotten so much more from them. I am beholden to these very special people. They have showed me what truly matters in life. And as I am here with my body in tact, I do now know what's important. Such appreciation and lessons might have been surpassed -- have surpassed me had I not have had the absolute honor to be in their lives. We at John J. Foley are a family, a community. And yes, Mr. Levy, we are a very unique place indeed. Thank you.

Applause

CHAIRMAN MONTANO:
Perfect timing, thank you. Mary Finnin? How are you, Mary? And Lydia Sabosto, is she here, on deck? Step up. Mary, go ahead.

MS. FINNIN:
Okay. Good afternoon and thank you for the opportunity to speak. I have written to most of you, but I want to put it on the record that I am strong -- my strong opposition to the sale of the Suffolk County John J. Foley Skilled Nursing home, today or any day.

The sale of the Suffolk County Health Plan, the sale of the tobacco assets and the privatization or sale of our health centers. I'm raising that issue because I think there's a pattern here and it goes beyond just the facility we discussed today. The County Exec proposals seem bent on destroying the health care system that it's established as a safety net to protect the public health. The above sales would provide short-term one time solutions to a budget and would not have much impact on my County taxes. Very few County tax dollars are included in the Homestead taxes I pay, the biggest portion go to the police and the rest go to everything else; 91% are for police, 9% covers everything else.

Our school taxes and lack of good jobs are what drive the people out of their homes in this County. The County Health Centers and the Skilled Nursing Home should remain the responsibility of the County. Private sector will not provide the community services needed by the public or the uninsured or the underinsured. It will not provide comprehensive and primary care that we provide through our clinics and our other facilities. When the HMO's pulled out of Suffolk because they weren't getting enough dollars, it was the County clinics, our Skilled Nursing Home and the Suffolk Health Plan that were the resources for our vulnerable population. I believe it's the responsibility of government to protect the health of all its citizens, that's why I'm happy to pay my County taxes.

We need to maintain a health structure and professional staff that can serve the public, provide preventive and primary care services and be a ready force in times of disaster. I believe that the tobacco money should be used for health purposes only, and if not used for that, turn it back to the agencies that gave it to us. I am a retired public health nurse, born and raised in Suffolk County and I want assurances that these good public health services are here for the generations to come. Thank you for your time.

Applause

CHAIRMAN MONTANO:
Thank you, Mary. And Raymond Yang, is he here? On deck. And after that, Judy Pannullo.

MS. SABASTO:
Good afternoon. My name is Lydia Sabasto, I'm the Executive Vice-President of the Suffolk County Association of Municipal Employees, the largest independent union in Suffolk County with over 8,000 members strong.

First, I want to thank all the J.J. Foley workers who came out who are using their own time to voice their opinions in this issue. And then I'd like to thank all the AME members, all the other members who aren't of J.J. Foley that came out to support this. And then the residents who came out on their own accord to voice their opinions on this.

When I was asked to speak to the Legislature regarding my Dad's stay at J.J. Foley about three weeks ago, I called my Dad and asked him if he wanted me to say anything on his behalf. And like a Dad, a lot of Dads, he said, "Well, yeah, of course." My Dad is 80 years old, he's been through six hip replacements, a knee replacement surgery, shoulder surgery, heart surgery, eye surgery, he's like the bionic man now. He told me to tell you it's a shame, it's shame to even think about selling J.J. Foley. He told me that with regards to all the places he had stayed after his surgeries, J.J. Foley was the best. My Dad can afford to stay pretty much anywhere he chooses and when I told him about J.J. Foley he was hesitant because he had -- he referred to it as the poor house because that's what it was known in his day. But he took my advice, went to J.J Foley. He told me to tell you his physical therapy treatments were the best around. He also told me to tell you that he nows the reasons why you're losing money on that, he said there's so many empty beds.

He's been a successful businessman for over 50 years in the County, but he said to tell you that you could turn that around and it's simple, all you need to do is fill the beds and start advertising. You don't need to get rid of the patients or get rid of the workers. He said it's a good place and you'd be foolish to sell it. In fact, he thinks you could be making a lot of money and not losing any money, but that's my Dad, he's full of advice.

He did ask for one thing, though; he asked that you bring back giving the patients a can of soda for all their meals, especially when they ask for one.

Applause

On behalf my Dad, thanks to all the workers at J.J Foley who made his three week stay there wonderful and thanks to the Legislature for listening. And thank you again for pulling this off the table and hopefully it will stay off the table.

Applause

CHAIRMAN MONTANO:
Thank you, Lydia. Raymond? Is Judy still here? Come on up.

MR. YANG:
Good afternoon, Members of the Budget & Finance Committee. My name is Raymond Yang. My son is in the John J. Facility, Skilled Nursing Facility. I'm a member, you know, a family member. I've come to see you to ask you to vote against Mr. Levy's proposal to sell or to privatize the John J. Foley Skilled Nursing Facility. Thank you for your time.

Applause

CHAIRMAN MONTANO:
Thank you, Mr. Yang. Hi, Judy.

MS. PANNULLO:
Good morning. How does this work?

CHAIRMAN MONTANO:
Just speak into the mike.

MS. PANNULLO:
Okay. Good morning. My name is Judy Pannullo and I apologize for my voice, I seem to be losing it. I'm here today as Executive Director of the Suffolk Community Council, a 75 year old umbrella agency of over 200 member agencies, mostly of which are social services and 150 individuals. Of the utmost importance to the Council is the health and the welfare of the poor and the less fortunate. I'm here today to speak about the John J. Foley Nursing Home, just like everybody else, I guess. The Suffolk Community Council feels that the state of the health care system in New York in general, and Suffolk County in particular, is not working as it should. The whole discussion of the Foley Facility plainly illustrates the broad state of our health system and underscores the inadequacy of the reimbursement rates. Medicaid, Medicare and other reimbursements received by hospitals and nursing homes are not adequate to cover the cost incurred to provide these services to care for our most vulnerable population. The Council feels that any closure of a facility will only add an additional burden on the already stressed system and may leave some of our more vulnerable residences without services.

The Suffolk Community Council wants to be sure that the welfare and health care of all of the residents of Suffolk County are insured and that no matter what the outcome of today's vote, the patients in the John J. Foley Facility will be cared with by the same care that they are now receiving. Thank you.

Applause

CHAIRMAN MONTANO:
Thank you, Judy. Lori-Ann Taggart from Suffolk Community College, is she here; Lori? Okay. Kathy Malloy? And our last speaker is Phyllis Garbarino.

MS. MALLOY:
Good afternoon. My name is Kathy Malloy, you know me as the AME Executive Board Secretary and the DSS Unit President, but I'm here today because it's personal.

My mother-in-law, Betty, lives at John J. Foley Nursing -- Skilled Nursing and Rehabilitation Facility, and Mom will be 80 this year. She is a widow and she was able to live on her own until she was 78. And despite regular visits, the last incident was my finding her on the bathroom floor and from all view, she had been there for quite a while.

Southside Hospital sent her to a private nursing home in Bay Shore for rehabilitation. It was small, dark, dirty and, just my opinion, smelled of urine, every room; it wasn't a nice place. And after 30 days, whether she was ready or not, they were putting her out, that's what I want to tell you about private nursing homes. My husband and I met with them and they said, "Medicare said 30 days is enough," and we said, "She's not ready to go." We didn't have health care in place, she couldn't walk, she could hardly speak. Well, we paid $1,900 and they allowed us to keep her there 15 more days, that's what the deal was. So after 45 days she went home.

Four weeks later and five hospital emergency room visits later, in four weeks, we found John J. Foley and we moved her in there and there she remains. She shares a huge room with a new friend, she knows everybody there, young and old. She attends physical rehabilitation three times a week, she's learned to move about very easily in her wheelchair, something the other place couldn't get her to do. She visits all her friend and many there, the nurses aides are her friends and they've become my friends, not only because I'm the union rep there but she was there before I was the union rep. And do you know the aides at the home in Bay Shore made fun of her? When she wanted to roll around in her wheel chair and visit people, they yelled at her and put something on her ankle that buzzed every time she went out of the room without an escort, and we went to visit her and she was crying a lot. The bottom line is she's happy and she's safe. I see her all the time.

My mother-in-law was a taxpayer for 60 years. I'm a taxpayer, I'm a County worker for 29 years. My husband works at Brookhaven National Lab which is five minutes from the facility, he visits her every day. My brother-in-law is a Suffolk County Police Officer, 7th Precinct, works around the clock, lives in Middle Island, he visits her every day; this is a very good deal for our family, just me alone.

The other available facility, and we looked into it too, was in West Babylon; we live in East Islip, that's not convenient for us. And I'm just wondering how often I can tell my husband, "You haven't visited your mother in a few days"; I don't have to tell him now, he stops every day. Life is supposed to get better. We are living longer, but we all need to know there will be a good place for you, and for us, for me, when we get there, when we reach our elderly years, or you might have to one day place one of your parents, too.

I ask you, Mr. Montano, before yes me, come visit, come there any day unannounced and you'll be very happy that you are a County worker, you'll be very proud.

Applause

CHAIRMAN MONTANO:
And Phyllis Garbarino is our last speaker.

MS. GARBARINO:
Thank you, Legislators, for taking the time. I really can't add anything stronger than what you've heard before, but I can add it in three different ways. I also had my mother at John J. Foley ten years ago when she needed nursing home care, I chose to place her there after visiting many nursing homes. They not only had the physical therapy equipment that she needed, the care she needed, but the facility itself is far above anything that you will visit. So you have to consider that. She lived out the last two years of her life there and her statement to me one day was, "Well, you know I really don't want to be here, but I have to admit, they are very, very good to me. They take good care of me."

The second part is the employees. The dedication you will not get anyplace else because these employees are dedicated to their jobs and that's the reason the facility is the good facility that it is; you can't get that with people just walking through on a daily basis and changing faces and the residents. I had the pleasure of working with these people for many years, with the employees of John J. Foley; they live through hell. They live through hell just to keep their jobs, because every cycle this nursing home was put on the chopping block again. Please, do not let that happen. As they said, it's off for today, but things have a way of coming in back doors; please do not let that happen again. Thank you very, very much.

Applause

CHAIRMAN MONTANO:
They sure do, I agree. Thank you very much, Phyllis. On behalf of the committee, I want to thank all of you for staying and making your presentations, even though you know that for today the issue is not on the table and should it come back on we expect you back. Thank you very, very much.

(*The following was taken by Alison Mahoney
& transcribed by Kim Castiglione*)

We're going to get back to the agenda. Can we have all the Legislators here?

UNKNOWN AUDIENCE MEMBER:
Thank you.

CHAIRMAN MONTANO:
Thank you. Have a good day. All right, we're going to get back to the agenda. We have two resolutions.

The first resolution, ***1283-08 - To readjust, compromise and grant refunds and chargebacks on correction of errors/County Treasurer by: County Legislature No. 294 (County Executive).*** I'm going to make a motion to approve and place on the Consent Calendar. I need a second.

LEG. ROMAINE:
Second.

LEG. BEEDENBENDER:
Second.

CHAIRMAN MONTANO:
Who seconded it? Legislator Beedenbender. All in favor? Opposed? Abstention? Motion carries, ***Approved and placed on the Consent Calendar (VOTE: 7-0-0-0).***
We have resolution before us 1307 of 2008, called the responsible plan for cost savings to mitigate and anticipate a 2009 shortfall. ***1307-08 - Refunding Bond Resolution No.   2008, Refunding Bond Resolution of the County of Suffolk, New York, Adopted March, 2008, Authorizing the refunding of certain outstanding serial bonds of said County, stating the plan of refunding appropriating an amount not to exceed $170,000,000 for such purpose, authorizing the issuance of not to exceed $170,000,000 refunding bonds to finance said appropriation and making certain other determinations relative thereto.***

I just want to point out that this morning there was an amendment filed with respect to this bill and then at 10:30 AM, while the committee was in session, we had -- my time is up. At 10:30 we had another amended version filed. We handed a copy of that to all the members of the committee. I know I haven't had a chance to really go through it. I'm going to ask Counsel to take us through the original and the revisions.

LEG. ROMAINE:
While Counsel does that, can we get a copy of attachment A because it's not either online --

CHAIRMAN MONTANO:
I don't believe attachment A has been filed, but I will ask Counsel. Counsel?

LEG. ROMAINE:
It's hard to vote on it without viewing the attachment.

MR. ZWIRN:
We filed it.

CHAIRMAN MONTANO:
It's hard to vote on it without reading it, but that's another issue.

LEG. ROMAINE:
That's it.

MR. ZWIRN:
It's been filed.

CHAIRMAN MONTANO:
Excuse me, Ben? I can't hear you.

MR. ZWIRN:
We filed the backup.

CHAIRMAN MONTANO:
All right. Can we have a copy of it? Does someone in the Clerk's office have a copy of it?

LEG. ROMAINE:
Attachment A, please.

CHAIRMAN MONTANO:
All right. We're going to wait for that, but in the interim we'll have Counsel go through an explanation of the various revisions, if you may.
MR. NOLAN:
Okay. Well, the big change, obviously, is the deletion of the section having to do with the Foley facility. Additionally, there are changes made to the component having to do with the Early Retirement Incentive Program. Most of those changes have to do, I believe, with really narrowing who may participate. It clarifies that if positions are State or Federal funded more than 50% those employees can't participate or their positions are revenue generating they may not participate. Also, an earlier version of the bill allowed some employees under the age of 55 to participate. That is no longer in the program. You have to be at least 55 years old.

LEG. ROMAINE:
Could I ask a question at this point?

CHAIRMAN MONTANO:
Yeah, I have a question also. Let me ask mine first. The revision you speak to with the early retirement incentive, it has a clause here. It says "and whose position of employment does not generate sufficient County revenue as determined in the County Executive's sole discretion." Is that a change that was put in there?

MR. NOLAN:
That is new, yes.

CHAIRMAN MONTANO:
That is new. Okay. Legislator Romaine, you had a question on that?

LEG. ROMAINE:
Obviously that disturbs me. The other question is if I'm a Tier II, III or IV and I'm between 55 and 62, but not 62 as of yet, and I retire, what implications does that have for my health benefits? Am I allowed to retire with my health benefits?

CHAIRMAN MONTANO:
With full health benefits? Do you know, Counsel?

MR. NOLAN:
Let me kick it here to Budget Review.

LEG. ROMAINE:
Budget Review, then.

MR. REINHEIMER:
In order to maintain and get health insurance through the County after you retire, you have to first retire through the New York State Retirement System and you have to have ten years with the County. So those people that are in tiers or not eligible to retire but take advantage of this, they would have to maintain their health insurance, pay the premium until they retire through the retirement system.

LEG. ROMAINE:
So you don't get the health benefits until you're 62.

MR. REINHEIMER:
Yes, and you only get them unless you maintain and pay for health insurance during that period of time that you leave the County and you start collecting retirement.

LEG. ROMAINE:
And we have employees that are anxious to do this?

MR. REINHEIMER:
Probably not a great deal, no. And they're not figured into the financial projections. We looked at the prime employees, in other words, employees that would be eligible to retire under New York State to determine how many people and what the financial impact would be.

LEG. ROMAINE:
Well, they'd have to be 55 if they're Tier I, and 62 if they're Tier II, III or IV.

MR. REINHEIMER:
No, you can be -- Tiers II -- if you have 30 years of service in --

LEG. ROMAINE:
Thirty years, right.

MR. REINHEIMER:
After the age of 55 you can retire before 62, correct.

LEG. ROMAINE:
Right. So in essence, you know, we're just giving a bonus to people who probably would be retiring anyway.

MR. REINHEIMER:
Early retirements by their nature encourage people to retire that are looking to retire within the next two to three years. Depending on the type of retirement program, early retirement program, determines the -- in other words, how many people would up front retire through this that were planning on retiring within the next three years, correct.

LEG. ROMAINE:
Have you done any forecasting on the numbers that might be involved?

MR. REINHEIMER:
Yes, we have. We haven't completed the analysis on a tightly targeted program, however, we did on the program as previously presented. In our estimation there's about 200 employees that would participate in this.

LEG. ROMAINE:
Thank you. Mr. Chairman, I have just been given a copy of attachment A. Obviously it would take time for me because I don't have a copy of the budget to go through every appropriations line.

CHAIRMAN MONTANO:
Right. No, I understand. I hear you on that. Let's do this. Let's go through each of the components and then we'll, you know, let's go through the early retirement, let Counsel finish, we'll ask our questions, we'll move on to the next subject.

MR. NOLAN:
Another change in the early retirement incentive is that it states that no more than 10% of any one department's full-time employees may participate in the program without the prior approval of the County Executive in the event more than 10% of employees in a particular department want to participate. Participation based preference will be given based on seniority. I mentioned Foley.

Additionally, the resolution authorized the County Executive to issue requests for proposals for expressions of interest regarding County's tax liens and then goes on to state that between the tobacco securitization and the sale of the tax liens, or securitization of the tax liens, the County will proceed with the one that makes the most sense from a fiscal standpoint, also from a socially prudent standpoint.

CHAIRMAN MONTANO:
That's beyond the early retirement.

MR. NOLAN:
Yeah, I've moved beyond the early retirement. I'm just moving now into --

LEG. ROMAINE:
If we adopt this what is the -- what powers are we giving to the County Executive? Do we forgo any responsibility to come back to this body for approval for anything that these expressions of interest or RFP's would produce? Or have we committed to a course of action.

MR. NOLAN:
The only thing I believe we have committed to with this resolution is that the County Executive can issue the RFP relative to the tax liens. And then I think there's a broad statement that -- well, the County will only proceed with the one that makes the most sense between tobacco and the tax liens. I believe any plan that would have to be adopted ultimately would have to come back to the County Legislature before it could be enacted. I believe the County Executive's Office would certainly agree with that.

CHAIRMAN MONTANO:
Does it say that in the resolution?

MR. NOLAN:
It does not say that expressly.

CHAIRMAN MONTANO:
I have a question. With respect to the early retirement, the first resolved clause talks about the agreement between AME and the County Executive. I know that when we have agreements reached with AME we generally ratify. I don't see any provision here for ratification by the Legislature. Does that mean that this is something that once it's agreed to by AME and the County Executive there's no need or there's no further involvement by the County Legislature?

MR. NOLAN:
I think this -- from reading this I would say it would not have to come back to the Legislature, that

this sets the parameters for the Early Retirement Incentive Program. Incidentally, I should note that in the amended version AME employees at the Community College are excluded, so that issue that's been raised by the college has been taken out of the mix.

CHAIRMAN MONTANO:
That was the letter I handed out this morning to the members of the committee which I didn't read into the record. Are there any questions by any other members? Legislator Kennedy.

LEG. KENNEDY:
Staying -- I guess we're going item by item. I'll stay first with the early retirement. And I'm looking in clause one and I'm looking at that determination that the Exec makes and I'm wondering if we can get a little bit about what -- how do we define generating significant County revenue? Do we have any kind of indication on what that means? I mean, understand the purpose, I understand offset, but I am a little uncertain as to what those terms would mean.

CHAIRMAN MONTANO:
Are you asking me or are you asking Counsel?

LEG. KENNEDY:
Well, I guess I'm asking Counsel and through the Chair I'm asking the Exec's Office if they can give us any kind of indication. And I don't mean to be arbitrary, but I mean, does that mean --

CHAIRMAN MONTANO:
Well, first I want to hear from Counsel. Then we'll go to the Exec's Office. Can you answer the question, Counsel?

MR. NOLAN:
All there is is the language about generating significant County revenues, no definition of that, and it's left to the County Executive to make that determination. I don't know what type of parameters, guidelines, they're going to use to make that determination.

LEG. KENNEDY:
Well, if you don't know, how am I going to know?

LEG. ROMAINE:
How am I going to cast an intelligent vote if we don't know this?

P.O. LINDSAY:
Could I speak, please?

CHAIRMAN MONTANO:
I'm going to yield to the Presiding Officer.

P.O. LINDSAY:
I was involved in the drafting of some of this language. The reason for the drafting of the language the way it was is that the last time that we did an early retirement incentive here was I guess about four or five years ago, and it actually cost us money. We didn't save any money because people retired in the wrong areas, and this is to try and avoid that. And I will give you one example that sticks in my mind. The Department of Consumer Affairs is a department that generates income for the County.

LEG. KENNEDY:
Absolutely.

P.O. LINDSAY:
They take in a lot of cash from licensing fees and stuff like that. The whole front office that collects

the fees took the retirement. We immediately had to replace everybody that retired, so as a result of that we didn't save any money and it was really foolish for us to go forward with that retirement incentive at that time because it wound up costing us money. The other example was the other category is we had a tremendous amount of people retire in Social Services. Many of them were heavily funded positions that were subsidized by the State.

LEG. KENNEDY:
Right.

P.O. LINDSAY:
And again, we really lost money on those because the people retired, we had to pay their retirement incentive and their pension, and we hired back the same people on a temporary basis because we weren't getting any income from the State because there was nobody there to fill out the forms. So this effort to craft language to target positions is what you're looking at now.

LEG. KENNEDY:
And through the Chair, we have had this conversation before, Mr. Presiding Officer. I know full well, having been in the Clerk's Office and knowing -- losing over a hundred years worth of experience and being in a revenue raising entity there was a consequence there as well. My only question to this is, is how do we define significant revenue? Are we looking at departments that are in or departments that are out? Are we looking at a department that takes in in excess of a hundred grand a year, or are we just really saying the Exec will decide whatever it is he decides to involve. That's my only question for anybody who can answer it.

CHAIRMAN MONTANO:
I think that's pretty clear in the language. Mr. Presiding Officer.

P.O. LINDSAY:
If I could answer that. I mean, you have to give somebody latitude there on who goes and who stays, and it should be with the Executive Branch. They're the ones that run the departments.

LEG. ROMAINE:
Here's the other concern that I would raise, and I'll just put it on the record.

CHAIRMAN MONTANO:
Hold on. Let's go in order. Legislator Kennedy? Because I have Legislator D'Amaro and Beedenbender on the list and then I will put you on next.

LEG. KENNEDY:
All right. Mr. Chair, not to beat a dead horse, and I appreciate the Presiding Officer's input, and I concur with him, but I would like to at least hear from the administration if they have any thoughts on this or is it undefined in general at this point. We're bringing up the heavyweight, huh?

MR. ZWIRN:
I'm sorry, Legislator Kennedy. What are you looking for, the departments?

LEG. KENNEDY:
Ben, all I'm looking for is anything that helps define the term significant revenue. That's like trying to define a reasonable man. You know, people have been arguing about that for centuries.

MR. ZWIRN:
Well, I think that in some respects it's left --

MR. KOVESDY:

(Inaudible).

MR. ZWIRN:
All right. Well, Allen is telling me the Claim's Department. There are certain departments that are definitely very clear, Consumer Affairs, but I think there are also areas that are gray that I think have been left to the County Executive to come back to you and tell you which areas that he thinks are appropriate. So it is giving a little bit of discretion. We didn't spell out each one individually. But I understand your concern about the Clerk's Office, about generating revenue out of that. I think that the claim's area -- but I don't think we spelled out each particular department.

LEG. KENNEDY:
My concern is that in doing this we want to go ahead and put it out there so that it's a bona fide offer to the workforce, but at the same time I'd like anything that helps to define what's the logic between a department in and a department not in, or a unit in or a unit not in. Something that I can articulate beside the fact that it is in the discretion of the Exec's Office. That's all. I'll yield.

CHAIRMAN MONTANO:
You know what, I'm not going to comment. Legislator D'Amaro.

LEG. D'AMARO:
Well, just to pick up on that. It only applies to Bargaining Units Numbers 2 and 6, so that's the universe of targeted employees in the first instance, right?

MR. BROWN:
Yes.
LEG. D'AMARO:
And then, you know, what are -- let's define significant. What do we suggest?

LEG. KENNEDY:
Well, you know, look --

LEG. D'AMARO:
I think -- my point is that what we're really doing is giving the County Executive sole discretion and giving some guidance. We are not giving a definition because we're not specifically limiting that discretion to a specific table or threshold amount, let's say, because you don't want to tie the hands when these decisions are being made. So it's an expression that says, you know, here's some guidance, significant or insignificant or not significant is what you have to think about. And -- but I think, Legislator Kennedy, you are right that, you know, it's that significant County revenue has no significance in my mind. So the way I read this is, you know, these are the parameters of the early retirement incentive that's being given, but it's really going to be implemented at the discretion of the County Executive when it comes to determining these threshold questions or at least this threshold question.

I want to go back just very quickly to Budget Review. Legislator Romaine brings up a great point about health insurance. I just want to make sure I understand what we're talking about here. I'm looking at paragraph two of the first resolved clause that says you must have reached age 55 and have 10 years of service. But that doesn't necessarily mean you have the ten years in the State Retirement System. Is that the gap we're talking about?

MR. REINHEIMER:
No. Generally, you know, there's a lot of people in the County that come from other governmental agencies, so a person could have satisfied the requirements to retire but hasn't worked ten years with Suffolk County. So they have enough retirement service years in, but not necessarily all with Suffolk County.

LEG. D'AMARO:

I'm only talking about health benefits now, so give me an example.

MR. REINHEIMER:
Right, okay. So for health benefits you need to have ten years with the County in order to get the health benefits when you leave.

LEG. D'AMARO:
So if you need to have ten years of service with the County to even be eligible for this incentive, by definition --

MR. REINHEIMER:
Not for the --

LEG. D'AMARO:
By definition will you receive the same health benefits had you not -- had you retired later on? I don't know if I'm asking that right.

LEG. ROMAINE:
No, not if you don't have the right age.

MS. VIZZINI:
You cannot receive paid health benefits unless you retire from the State Retirement System. So you have to meet those criteria first.

LEG. D'AMARO:
Okay.

MS. VIZZINI:
If you retire before you meet those criteria you then would have to provide health insurance some other way, COBRA would be a possibility or perhaps you're leaving to go to another job that you would get it. Some employees may have health insurance in addition to their County health insurance, so there's a lot of individual cases.

LEG. D'AMARO:
So we're not -- so whether or not you can retire from the State system and receive your benefit is a decision you make whether you're retiring early under a program or whether you're retiring at what you call your targeted age. So that's always -- some people will not get the benefit and some will. This doesn't somehow exclude a larger group of people from receiving their health insurance.

MR. REINHEIMER:
If I follow your question, no, this would not impact the parameters that you're eligible for collecting health insurance or not. The parameters for that are unchanged.

LEG. D'AMARO:
Right, and that's always a factor.

MR. REINHEIMER:
That's correct.

LEG. D'AMARO:
When you are considering when to retire, whether it is early under a program, whether it is your target age, or, you know --

MR. REINHEIMER:
That's correct.

LEG. D'AMARO:
It's also a factor where you get insurance. I just want to make sure by we're not holding out something but taking with the other hand at the same time.

MR. REINHEIMER:
No, no. This does not impact the eligibility for collecting paid health insurance through the County when you retire. It's the same parameters as exists today.

LEG. D'AMARO:
All right. Thank you, Budget Review. Mr. Chairman, thank you.

CHAIRMAN MONTANO:
Okay. Before we move on, I know there were a couple of questions, but I think we need to go back to Counsel and have him go though some of the other changes. There are some add-ons to the original 1307. I just want to put those on the table and then we'll have our discussion.

MR. NOLAN:
Okay. The next new item from the original version is -- it has to do with exempt employees. It eliminates the July 1, 2009, step advancement for exempt employees. Lastly, the resolution directs Consumer Affairs, Health Services, Public Works, Civil Service and Probation to review their fee structure, make recommendations for increasing fees. And lastly, there's a provision, this is new, to eliminate pay-as-you-go funding capital projects, to suspend that again through December 31, 2009.

CHAIRMAN MONTANO:
Okay. Legislator Beedenbender.

LEG. BEEDENBENDER:
Mr. Chairman, my comments were basically on the whole overall need for the bill, so if you want to hold off and do specific --

CHAIRMAN MONTANO:
No, you go right ahead. I think, Counsel, that's your explanation of the changes between the original 1307 and to date.

MR. NOLAN:
Yes.

CHAIRMAN MONTANO:
Okay. Let's address this so we can get a vote on this. Legislator Beedenbender.

LEG. BEEDENBENDER:
I know we have been discussing all morning, for the most part we discussed with the Comptroller and our financial advisor the need to do this. There was some discussion about whether or not it was worth it because, you know, this might only save this amount of money or a few dollars here, a few dollars there. But I guess my overall concern is that everything is going up. I mean, you go to the pizza place and you look at the sign and it says "Pizza is more expensive because dough is more expensive." Everywhere you go everything costs more and everybody knows that. I just don't want government, regardless of what it is, to be another thing that costs people more.

And I know we've talked also about, you know, the sales tax numbers are up and we've talked about a surplus. We're really -- it's even worse than mixing apples and oranges at this point. I mean, sales taxes is always up at this point of the year, save last year. The real interesting part of the year is the summer years and towards the end of the year when we have the holiday season. So it's been up every year and then it ends up going back down. So I think, you know, the jury is still very out on whether or not the sales tax is going to come in higher than we budgeted.

And all these options, they're not optimal options, but, you know, we don't really have good times and we have to make tough decisions. I'm not going to vote to make my constituents pay any more money. I can't speak for anybody else's constituents, just mine, and they don't want to pay anything. As a matter of fact, they don't want to pay what they're paying now, whether it is $100 a person, $50 a person or $200 a person.

This is a tough bill. You know, we have people that were going to retire and we're offering them incentive and that costs us money and we are not going to replace them so there's a cost there. We're going to securitize some asset it seems and those have a cost. We're going to look at raising fees and that also has a cost to the people that live in this County. We're going to look at freezing salaries, which also has a real affect on the people that work for us, the people that work in the District Attorney's Office, the people that work for the County Executive's Office and about 400 workers throughout the County, but we have to make a decision. And the bond raters are coming in on April 30th, as our Comptroller told us. Our meeting is the 29th. I think our problem would get measurably worse if we put it off and our bond rating decreases and we end up having to pay higher interest for the issues that are going out, especially considering it's just about the time of year we're going to issue that debt.

Just lastly, I think there's also been discussion about whether or not this has to come back to the Legislature. I think there is pretty much no question whatsoever that it does. Most of these things would involve amending the budget, so by Charter alone they'd have to come back to us. I can't see one thing -- we are authorizing the appropriation reductions, we're authoring a study on the fees and we're authorizing the exempt freeze. But beyond that -- the early retirement plan we're also authorizing, but all the securitization plans will come back to us. All the suggestions for increasing fees must come back to us. They cannot be increased without the consent of this body.

But lastly I just want to talk about the exempt wage increase. We all have all our employees as Legislators are exempt employees. They are all taking a hit from this and it's my particular thought that they're taking a hit, although it's not the same as the salary structure that we have as Legislators. I think we should be taking one too, and there isn't really -- there hasn't really been a -- excuse me. There hasn't really been a consensus to do that.

So just I will close by saying Gail, I don't know what I have to do, but this bill contains a cut in salary for my staff in 2009, so I would like to not get my 3% increase and I don't want to donate it to charity. I want it to stay in the County. What do I have to do -- well, you don't have to answer me, but I would like to do that. We can't -- we need a resolution to do it for all the Legislators, but I want to know if there is an operation where I personally just for myself could tell you pay me what I'm getting this year next year. So we can talk about that after. But that, on the record, I'm going to do that because my staff is taking a cut and I think I wouldn't be able to look them in the eye and tell them, you know, that it's fair if I didn't take one too along with them, especially considering there won't be a contract and they won't be getting their three percent either in 2009.

So with that, we have to make a decision. The people of Suffolk County require an answer. They require us to act. This will not even get all the way and we all know that. We've been open on the table. But if we wait the problem will get worse. We will have no solution. And if you don't want to securitize the tax liens, you don't want to securitize the tobacco assets, what is the replacement for the $50 million or so that we've suggested that those two ideas could bring forward. If you have -- if there's another $50 million out there, I'm sure this working group that met with the County Executive would love to hear it, but I cannot ask my constituents and the taxpayers of Suffolk County to pay anymore, whether it's a dollar, two dollars. They pay some of the highest taxes there are. It doesn't matter that Suffolk County is a small part of it. We cannot add to it. This is a huge step forward to making sure we don't have to do that, and I think we should approve it today.

CHAIRMAN MONTANO:
Legislator Romaine.

LEG. ROMAINE:
One of the first things that a doctor does when he sees an ailing patient is he tries to get what the symptoms are and try to match it with an appropriate cure. I think that's what we're trying to do here as Legislators. What are the symptoms of an ailing economy? How did we get here? I remember sitting here less than six months ago when no talk of financial collapse was discussed when we were adopting the 2008 budget by the County Executive. At no point during those discussions when questions could have been raised and asked in detail were we told that we were facing a shortfall. Originally it was announced that we were facing a shortfall --

MR. ZWIRN:
That's not true.

LEG. ROMAINE:
-- of $200 million at the beginning of February. Then we find out it's now $150 million. Then we find out we have a surplus of -- unanticipated surplus -- of over $30 million when we closed out 2007. Then we find out that the sales tax numbers, and by the way sales tax usually improves at Christmas and in the summer, but the sales tax for the first quarter, which is usually our weakest quarter, came in at 3.8%.

So I'm trying to figure out what all the symptoms are and match it to the cure. I look at the this incentive program, and let me ask a very simple question to Budget Review. Is this a State approved retirement incentive? That's a yes or no.

MR. REINHEIMER:
No, this is our own incentive.

LEG. ROMAINE:
Thank you. This is not a State -- so if someone, just to clarify for Legislator D'Amaro, is between 55 and 62 and is Tier II, III or IV and don't have -- doesn't have 30 years of service, they can't retire with health benefits --

MR. ZWIRN:
They wouldn't retire.

LEG. ROMAINE:
-- until such time as they reach 62. I don't know how many people would be affected by this.

As far as the tobacco securitization, they raised a lot of questions today and I'm depending on the local development corporation, hopefully who are independent and not related to anyone serving in government in any way, but hopefully independent enough to make a judgment about whether this will benefit us, whether this will create a structural deficit for our County in out years, what the advantage or disadvantage is. And I also want to take a look, and perhaps Budget Review can do this as well, as how much are we spending on tobacco cessation. By the way, this is, by the way, the whole purpose of this program. Not to take the money and run, but to spend it on health education and I'm wondering about that and how that will effect how tobacco securitization will affect our ability to fund tobacco cessation programs.

Then I go on and I look at the wage freeze. We are now beginning to create something that in the private sector you usually don't do, which is different classes of employees. All of a sudden our exempt employees are to be treated differently than our contractual employees. That creates resentment and creates problems. And I agree with Legislator Beedenbender. If we're going to do this we should apply it to all Legislators, all elected officials instead of just one class of employee, because now we're creating a different class of employee.

And department fees, and this is where I could request a response from Mr. Zwirn. How much are we planning to raise by fees, because someone once said that fees are nothing more than a backdoor tax. How much are we planning to raise from all of these departments from these fees? Rough ballpark estimate, and I realize you may not be exact, but a rough ballpark estimate.

MR. ZWIRN:
They're estimating three million dollars.

LEG. ROMAINE:
Thank you. And then we go in and we look at pay-as-you-go. When we have a financial problem in our personal lives, what should we do? Well, that's simple. Whip out the credit card, because essentially that's what we are doing when we abandon pay-as-you-go. What we're saying as a County is that pay-as-you-go should be abandoned and we should go into debt for things that normally would be an operating expense. Something that would be paid for out of our Operating Budget we now should go into debt for. We should now take out the credit card.

I'm going to say, and I still don't know how desperate our situation is. Again, the symptoms and the cure. But I have to say that some of the recommendations are intriguing. I'm intrigued and I think securitizing the tax liens certainly has an advantage. So it looks good in this bill, but there's a lot of question marks and there's some bad in this bill. Obviously I am totally opposed to going to abandoning pay-as-you-go because all we're doing is we are adding to the debt of this County and we have enough debt. So like any other bill I have to weigh the good against the bad.

I don't have the answers and one of the questions I did want to ask is about the interfund transfers. I see that we're doing some interfund transfers in some revenue. A transfer from the police, and this is multipage document with all types of accounts that we just got five minutes ago, so it's difficult to review this without the Operating Budget being here. But I see at the end of this we're talking about transfers from the Police District. Could you explain what that means Gail?

MS. VIZZINI:
Is it 300,000 and 300,000?

LEG. ROMAINE:
Yes.

MS. VIZZINI:
My recollection is we are reducing $600,000 for vehicles. We're striking that appropriation. So I believe that if you lower it in one place --

LEG. ROMAINE:
You have to lower it in the other place.

MS. VIZZINI:
Yes. It's just a housekeeping --

LEG. ROMAINE:
I understand. I'm obviously -- I feel at this point I obviously need more time to ask and understand some of the implications of this legislation. I particularly don't like giving the County Executive carte blanche. I always feel that the Legislature, there should be some requirement to come back to the Legislature, even on the reduction in staff that is proposed by the early retirement. I have to say while I think there are financial problems out there, I don't know the extent of those problems. I see some symptoms, I don't know if this is the cure. Thank you.

CHAIRMAN MONTANO:
Legislator Kennedy followed by Legislator D'Amaro and Legislator Barraga.

LEG. KENNEDY:
Thank you, Mr. Chair. I think all of us are sitting here struggling with what is a significant amount of reduction that we have to contemplate and I for one would say I commend the budget working group and I do commend the Exec for bringing forward proposals to discuss, and in particular the inclusion of the securitizing the tax liens. I spoke with them as much as four weeks ago to ask that be involved and I know that's come through the discussion of the Presiding Officer as well. So I commend you there.

I am concerned with some of what I see in the resolution, though, again from a structural perspective. I'm going to put them on the record and I'm going to ask about the addition here. Ultimately I think what I'm going to do is, Mr. Chair, I would be happy to make a motion to discharge without recommendation. I'm willing to bite down and say I will go with this subject to my ability to look at it a little bit further.

CHAIRMAN MONTANO:
Let me just say that I'm not prepared to vote on this today. I would think that it would be better to discharge without recommendation and if we can do that then we can take this before the full Legislature. Absent that I'm going to abstain on the vote. I don't think I have had enough time to review it. There are some changes here. I did miss the meeting yesterday. I was unable to attend the budget meeting yesterday. So if that is in the form of a motion, I would be willing to second it. I don't know how the other committee members feel, but I think, look, we're a quarter to two now. We have cut into the Senior Citizens Committee 45 minutes, we have a Public Works Committee at two o'clock and, you know, we still have a list of many speakers on this.

LEG. KENNEDY:
Okay. So let me --

CHAIRMAN MONTANO:
I'll leave it at your pleasure.

LEG. KENNEDY:
I will A, consider that a motion, and B, I'll cut to the chase.

CHAIRMAN MONTANO:
I'll second the motion.

LEG. BARRAGA:
What's the motion?

CHAIRMAN MONTANO:
Motion to discharge without recommendation.

P.O. LINDSAY:
I'll make a motion to approve.

LEG. BARRAGA:
Second the motion.

LEG. KENNEDY:
All right. If I can, then, I'm just going to go to Counsel and say first --

CHAIRMAN MONTANO:
Go ahead, Legislator Kennedy. Move forward.
LEG. KENNEDY:
Fifteen, item 15, this is whereas language, but as I have said, I'm curious as to whether or not we're

able to go ahead and bind actions into '09 based on a resolution that we go ahead and adopt at this point. I seem to recall that we have some limitation as far as our ability to go ahead and effect an impact, and if all we're doing at this point is memorializing some representation --

MR. ZWIRN:
It's a whereas clause.

LEG. KENNEDY:
I know it's a whereas clause, Ben, but that's why I'm raising it.

CHAIRMAN MONTANO:
Let him speak, Ben.

MR. ZWIRN:
He read my lips.

CHAIRMAN MONTANO:
We don't need interruptions. Let him speak.

LEG. KENNEDY:
And I'm going to ask Counsel to go ahead and basically state that on the record.

MR. NOLAN:
I believe Legislator Kennedy's referencing in the 15th whereas clause that it is intended to reduce 2009 appropriations for contracted agencies by 2% for a savings of $2 million. It is a whereas clause so it really has no binding legal effect. Additionally, if the Legislature chooses during the budget process not to cut $2 million and chooses a different policy path it will be free to do so. So this will not affect the Legislature's ability or bind their hands or tie their hands in terms of funding for contract agencies in the 2009 budget. That's my interpretation.

LEG. KENNEDY:
Fine. Then let me go to the ninth resolved. And we just had this conversation I'm going to ask you. Can we take an action today that's going to impact our salary plan in a year beyond the year that we're in? Do we have that ability to go ahead and impact future years wages based on where we're at today?

MR. NOLAN:
Yes -- I'm sorry, Legislator.

LEG. KENNEDY:
No, go ahead.

MR. NOLAN:
I was just going to say that the resolution was passed several years ago to give exempts step increases at certain intervals years in advance. I think conversely we can pass a resolution to say that you will in fact not get a step in 2009. I think that's within the Legislature's authority.

LEG. KENNEDY:
The salary plan that gets adopted after the AME, the collective bargaining agreement that gets adopted, is a similar type of a salary plan I believe. It oftentimes mimics what the wage patterns are for AME, or do we just set wage for exempts on a year by year basis?

MR. NOLAN:
I think typically, and I will defer to Budget Review on this. I think after the AME contract is completed we pass a resolution that does largely track the salary and benefits of the union employees.

LEG. KENNEDY:
That's the way it was for Bargaining Unit 21 when I was in management. What happened was it was a multiyear plan. Is that the way -- how do exempts go forward? Is it year by year or is it a multiple year plan that we adopt?

MS. VIZZINI:
Typically it requires a resolution and then the resolution will dictate whether, for example, the same benefits extended to AME are extended to those excluded from the bargaining unit. There's also the possibility of a resolution doing something completely different than what is negotiated for the union.

LEG. KENNEDY:
So what is the plan now, right now, for the exempts in '09? And is that by a resolution that we've adopted already.

MS. VIZZINI:
There is nothing definitive, although there is an intent to exclude the step increase for exempt employees in --

LEG. KENNEDY:
By based on what we're looking at here in 1307. So the intent, then, basically is by this resolution to modify the existing resolution that's in place that governs the step process through when?

MS. VIZZINI:
Just for the 2009 fiscal year.

LEG. KENNEDY:
So the intent is that in 2010 we go back to a step process? Or is that undefined? We don't have a resolution that covers 2010 at this point.

MS. VIZZINI:
Yeah, we're not addressing 2010.

LEG. KENNEDY:
All right. Last question goes to the additional item. I guess a question and then a recommendation. One is I'm going to go to page nine of this addendum, the Exhibit A, where we go into the fees for services. We do 9, 10, 11 and part of 12. Those fees for services not employee are basically the contracting that we have done through various agencies. Is that our engineering through Public Works or are -- tell me, give me an idea of what it is that we're reducing at this point.

LEG. ROMAINE:
We can't tell with the appropriation.

CHAIRMAN MONTANO:
Who are you asking, John?

LEG. KENNEDY:
Anybody who can give me an answer.

MR. KOVESDY:
It's general fees for services that the departments would use at their discretion which does -- usually these things have to be RFP'd out. There's no contract in existence for those fees.

LEG. KENNEDY:
So I'm not reducing the funding for the engineering firm that's dealing with the modification of

County Road 93 at this point by adopting this resolution, am I?

MR. KOVESDY:
No, that would be capital anyway, John.

LEG. KENNEDY:
Okay. Fair enough. So this is just straight contract stuff.

MR. KOVESDY:
Yeah.

LEG. KENNEDY:
Fine. I'll yield.

CHAIRMAN MONTANO:
Okay. Legislator D'Amaro.

LEG. D'AMARO:
Thank you, Mr. Chairman. I'll be quick. I was a member of the informal working group jointly with the County Executive's Office and I want to thank the County Executive Office as well as my colleagues who were on that group for working so diligently on this. However, as a voting member of this Legislature, as this proposed resolution has the potential in clause -- the ninth resolved clause to affect my spouse's terms and conditions of employment, I am going to recuse from participating in any discussions on this bill as well as voting on this bill. Thank you.

CHAIRMAN MONTANO:
Thank you. Mr. Barraga. Legislator Barraga.

LEG. BARRAGA:
Thank you, Mr. Chairman. I think as I listen to the discussion with reference to this particular proposal, certainly I think I join others in terms of looking at the seriousness in terms of what we have to do here. I think Legislator Romaine is correct when he says that six months ago there was very little discussion with reference to the economic realities that may -- would face, the County would face in the future. But then again, there was very little discussion six months ago at the regional or national level when it came to the sub-prime crisis or a credit banking crisis, the huge increases in defaults, the large number of layoffs, the Wall Street turmoil. This has all come in the last six months and it's been unbelievably dramatic. Even today, you know, wholesale prices are up three times what they expected. These are economists. There is very little visibility here. I think that's what we have to remember as we go forward. I mean, when the CEO's of major corporations cannot tell you what's going to happen in three, six, or nine weeks, I think from a governmental perspective when it's basically agreed that we may face a 120 to $150 million deficit, you have to prepare for the worst and hope for the best.

This special committee, which Mr. D'Amaro is a member of and I am a member of, you know, all of these things we normally would not want to touch with a ten foot pole. But what do we do? Do we sit around and do nothing and ask for more information and more information, or do we make a decision. And at some point if we have to, we make the decision right. But I think we have to move forward on this. Time is not working on our side. We have to close this deficit.

On a personal level, I'm not too crazy about tobacco securitization or liens or a lot of this other stuff, and fee increases, but I'll support them because when I joined this committee, and I think Mr. D'Amaro would agree with me, that our goal here was to avoid increasing taxes and laying off people. That was the goal. I think we're on track to achieve that goal. I don't want a situation developing where all of a sudden we face a huge deficit and we've done nothing. And I have seen that happen before, because the people who wind up voting against everything in the end when things go really south, all they do is blame somebody else who is not in the room. It's a question of taking responsibility here. I don't think we can just report this with, you know, without a recommendation. I think we have to be decisive here. We have to take a vote and we have to pass this. It has to pass on the 29th. Let's move forward as quickly as possible to close this gap. Thank you.

CHAIRMAN MONTANO:
Legislator Browning.

LEG. BROWNING:
Okay. I hate to follow Tom, I really do. However, I have to say I do commend the working group on what they have done. It was not a Republican issue, it's not a Democrat issue, it's everyone's issue. And I do want to say that I am going to join Legislator Beedenbender. If I am going to ask my staff to take a wage freeze, then I should do the same and I'm going to challenge each and every one of my colleagues to do the same. Thank you.

CHAIRMAN MONTANO:
Okay. We're going to call for a vote on this. The first motion we have is a motion to discharge without recommendation. All in favor? Opposed? I'm in favor. We have three in favor. Opposed? We have one, two -- hold on. This is to discharge without recommendation.
We will do the vote again. Who is in favor to discharge without recommendation? Legislator Romaine, Legislator Kennedy, and myself. Opposed? Legislator Lindsay, Legislator Beedenbender, Legislator D'Amaro has recused himself, Legislator Browning and Legislator Barraga.

We now have a motion to approve and seconded. All in favor? Legislator Lindsay, Beedenbender, Browning and Barraga and Kennedy.
Opposed? Abstentions? Mark mine as an abstention along with Legislator Romaine.

LEG. D'AMARO:
I recuse.

CHAIRMAN MONTANO:
Legislator D'Amaro has recused himself. Motion passes.
(VOTE: 5-0-2-1 Abstentions: Legislators Montano & Romaine; Recusal: Legislator D'Amaro; Presiding Officer Lindsay included in the vote).

CHAIRMAN MONTANO:
Let's move on to the final bill we have on the agenda which is -- bear with me.

IR 1310-08 - Adopting Local Law NO. 2008, A Local Law to require cash deposits to be made in accounts at authorized banks or trust companies (County Executive). I'll make a motion to table for public hearing; I need a second.

LEG. BEEDENBENDER:
Second.

CHAIRMAN MONTANO:
Second by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries, ***Tabled (VOTE: 7-0-0-0).***

The meeting is hereby adjourned. Thank you very much.

(*The meeting was adjourned at 1:56 P.M.*)

{ } - Denotes Spelled Phonetically