

**BUDGET & FINANCE
AND
INFORMATION TECHNOLOGY
COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE**

MINUTES

A meeting of the Budget & Finance and Information Technology Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on Tuesday, November 25, 2011.

Members Present:

Legislator DuWayne Gregory - Chairman
Legislator Jay Schneiderman - Vice-Chair
Legislator Ed Romaine
Legislator Tom Muratore
Legislator Lou D'Amaro

Also In Attendance:

George Nolan - Counsel to the Legislature
Jason Richberg - Aide to Legislator Gregory
Renee Ortiz - Chief Deputy Clerk of the Legislature
Gail Vizzini - Director Budget Review Office
Robert Lipp - Deputy Director - Budget Review Office
Paul Perillie - Aide to Majority Caucus
Dennis Brown - County Attorney's Office
Catherine Stark - Aide to Legislator Schneiderman
Justin Littell - Aide to Legislator D'Amaro
Eric Kopp - County Executive's Office
Dot Kerrigan - AME
All Other Interested Parties

Minutes Taken By:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:06 A.M.*)

CHAIRMAN GREGORY:

Good morning, everyone. Welcome to today's Budget and Finance, Info Technology Committee Meeting. We are going to ask that all Legislators join us in the auditorium. We're going to start off with the Pledge of Allegiance.

SALUTATION

CHAIRMAN GREGORY:

Okay. We are going to go to public hearing. We have one card, Steven Jones.

MR. JONES:

Good morning. Steve Jones, Long Island Maritime Museum. I'm just here to answer any questions that any committee members have about IR 1914 when the time comes.

CHAIRMAN GREGORY:

Okay. I see the card. All right. We are going to go to the agenda. The administration, do they have anything to say? Comments? Statements? All right.

TABLED RESOLUTIONS

IR 1788 - Amending the 2011 Operating Budget to support Parents for Megan's Law. (Eddington)

I make a motion to table second.

LEG. SCHNEIDERMAN:

Second.

CHAIRMAN GREGORY:

Seconded by Legislator Schneiderman. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0).**

I believe the five resolutions were addressed in the budget, so we're going to be making motions to table.

IR 1828 - Authorizing the transfer of \$12,000,000 from the Tax Stabilization Reserve Fund to the General Fund in the wake of Tropical Storm Irene, a public emergency. (Co. Exec.)

I stand corrected. I going to make a motion to table this anyway. We're still waiting for information from the administration on the details.

LEG. SCHNEIDERMAN:

Second.

CHAIRMAN GREGORY:

Seconded by Legislator Schneiderman. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0)**

IR 1830 - Adopting the 2012 Operating Budget and prioritizing delivery of services while stabilizing taxes for Suffolk County residents in Fiscal Year 2012 (Discretionary). (Co. Exec.)

LEG. SCHNEIDERMAN:

Motion to table.

CHAIRMAN GREGORY:

Motion to table by Legislator Schneiderman, I will second it. All in favor? Opposed? Abstentions?

TABLED (VOTE: 5-0)

IR 1831 - Adopting the 2012 Operating Budget and prioritizing delivery of services while stabilizing taxes for Suffolk County residents in Fiscal Year 2012 (Mandated). (Co. Exec.)

Same motion, same second, same vote. **TABLED (VOTE: 5-0)**

IR 1832 - Replacing State funding for the Medical Examiner with local funding. (Co. Exec.)

Same motion, same second, same vote. **TABLED (VOTE: 5-0)**

LEG. ROMAINE:

This looks like something we did.

CHAIRMAN GREGORY:

Yes, that's why we're tabling these, they've been addressed in the budget.

LEG. ROMAINE:

Just wanted to make sure on that one.

CHAIRMAN GREGORY:

IR 1833 - Replacing State funding for Emergency Medical Services coordination with local funding. (Co. Exec.)

Same motion, same second, same vote. **TABLED (VOTE: 5-0).**

INTRODUCTORY RESOLUTIONS

IR 1858 - To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature No. 361. (Co. Exec.)

I make a motion to approve and place on the Consent Calendar by Legislator Schneiderman, I will second it. All in favor? Opposed? Abstentions? **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 5-0)**

IR 1859 - To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature No. 360. (Co. Exec.)

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 5-0)**

IR 1860 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 868-2011). (Co. Exec.)

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 5-0)**

IR 1861 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 870-2011). (Co. Exec.)

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 5-0)**

IR 1891 - Authorizing the creation of a Capital Fund to account for all Capital activity related to Gabreski Airport, a proprietary fund of the County. (Co. Exec.)

I'm going to make a motion to approve. Can I get a second?

LEG. SCHNEIDERMAN:

Second for the purposes of discussion.

CHAIRMAN GREGORY:

Seconded by Legislator Schneiderman. Mr. Lipp.

MR. LIPP:

These are new accounting standards. GASBE 54, which requires in terms of reporting requirements to set up such a fund. So it's just meeting accounting standards.

LEG. SCHNEIDERMAN:

I know in the airport all revenues have to stay within the airport fund. Is that what this basically is, it creates a special fund for the airport. I thought we already had that.

MR. LIPP:

It would create a Capital Fund actually, which is sort of like -- you don't see that in the Operating Budget, but there are separate Capital Funds, for instance, for the sewers.

LEG. SCHNEIDERMAN:

For debt service, etcetera.

MR. LIPP:

Yes. So this would set a separate Capital Fund up to segregate the monies associated with capital projects for the airport.

LEG. SCHNEIDERMAN:

I don't know if you know the answer to this, but are we splitting out the monies that come in through the lease of land and the new industrial park? That doesn't go into the airport, right? That goes into the General Fund, I believe.

MR. LIPP:

I believe so.

LEG. SCHNEIDERMAN:

All right.

CHAIRMAN GREGORY:

Legislator Romaine.

LEG. ROMAINE:

By establishing this Capital Fund, does that mean that we will not see any Gabreski Airport activity in future Capital Budgets because we've segregated out a separate Capital Fund simply for that?

MR. LIPP:

It shouldn't affect our deliberations. It just segregates the money so that it's clear, you know, what debt service is being spent and segregating it for the airports purposes. It's just simply a County reporting thing.

LEG. ROMAINE:

I understand it's a County reporting think, but right now, we have a general Capital Budget and we have a Capital Program. Is and in that program is activities for Gabreski Airport. They're not segregated out. Will they be segregated out in the future?

MS. VIZZINI:

They will not. It will be just like the Community College presentation, which is included in the Capital Program where it's seamless.

LEG. ROMAINE:

But for accounting purposes, it will be attributed to this new account.

MS. VIZZINI:

Correct. It has to have a different number.

LEG. ROMAINE:

Okay. So this really doesn't changes anything except how it's reported.

MS. VIZZINI:

It makes us in compliance with GASBE 54.

LEG. ROMAINE:

Okay. Thank you.

CHAIRMAN GREGORY:

Okay. We have a motion and a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0)**

IR 1902 - Authorizing the County Comptroller and the County Treasurer to transfer funds to cover contractual salary increases in the 2011 Adopted Discretionary Budget. (Co. Exec.)

I will make a motion to approve.

LEG. SCHNEIDERMAN:

Second.

CHAIRMAN GREGORY:

Seconded by Legislator Schneiderman. Legislator Romaine.

LEG. ROMAINE:

Yes. This is a resolution put forth by the County Executive to transfer funds from where to where?

MS. VIZZINI:

This is in reference to --

LEG. ROMAINE:

I saw the Schedule A and the Schedule B.

MS. VIZZINI:

Right. This is the AME salary increase.

LEG. ROMAINE:

The AME salary increase?

MS. VIZZINI:

Yes. The 2% AME similar increase that we approved.

LEG. ROMAINE:

For their current contract? I thought their contract had expired or is about to expire.

MS. VIZZINI:

AME negotiated and agreement for 2011 and 2012. It was zero, zero, and two percent in 11% and two percent in '12.

LEG. ROMAINE:

Right. And the two percent gets paid when, at the end of the year or what?

MS. VIZZINI:

Yes. This is for the retroactive for 2011. It was not budgeted in the salary lines. It is coming from the contingency fund. The detail that you reference; the Schedule A and Schedule B is the mandated and the discretionary appropriations. So because it's coming from the salary contingency fund, we need a resolution to move the money. So the schedules detail precisely what departments, what appropriations to out the money in so that people --

LEG. ROMAINE:

Once we adopt 1902 and 1903, we will have depleted those accounts, contingency accounts; is that correct?

MS. VIZZINI:

I don't know.

LEG. ROMAINE:

Okay.

MS. VIZZINI:

I have to see what's in the contingency.

LEG. ROMAINE:

I understand we have to do this. This is what I'm going to ask and I don't expect you to know off the top of your head or have the information available, but maybe later today or tomorrow, if you could forward to me once these -- act as if these resolutions are going to be adopted by the general body next Tuesday, tell me what would be left in those

contingency accounts.

MS. VIZZINI:

Sure. But those contingency accounts can only be used for salaries and is anticipated that there will be other awards for the coming --

LEG. ROMAINE:

In 2011?

MS. VIZZINI:

Yes.

LEG. ROMAINE:

Really? Okay. In which case, you probably don't want to disclose that information.

LEG. ROMAINE:

I'll withdraw my request. But what you might do instead is tomorrow or the next day, whatever, tell me what other agreements without specifying monetary amounts might be drawn on that -- could be used to be drawn on that account.

MS. VIZZINI:

Not a problem.

LEG. ROMAINE:

I don't know if they are, they're not. But these are the ones that are outstanding that could be drawing on those contingency accounts. I'd just like to know what's out there.

MS. VIZZINI:

It's mostly in the area of Public Safety.

LEG. ROMAINE:

Right. Okay. Police, etcetera. When those are done, which I guess they'll be down between now and, what, December 20th is our last meeting?

CHAIRMAN GREGORY:

20th.

LEG. ROMAINE:

Right. Certainly by December 20th I'd like to know what balances are left.

LEG. ROMAINE:

Because by that time, we've expended everything, you know.

MS. VIZZINI:

More than likely, by then we will already have a housekeeping resolution brought before you. So any salary related expenses that might --

LEG. ROMAINE:

Right. Will be swept at the end of the year.

MS. VIZZINI:

Well, and then we will have a better idea of what's left over and carry it over.

LEG. ROMAINE:

Okay. I just want to look at the year-end situation.

MS. VIZZINI:

Okay.

LEG. ROMAINE:

Thank you very much.

CHAIRMAN GREGORY:

Okay. We have a motion and a second. All in favor? Opposed? **Abstentions? APPROVED (VOTE: 5-0)**

IR 1903 - Authorizing the County Comptroller and the County Treasurer to transfer funds to cover contractual salary increases in the 2011 Adopted Mandated Budget from the 2011 Adopted Discretionary Budget.

I make a motion to approve.

LEG. SCHNEIDERMAN:

Second.

CHAIRMAN GREGORY:

Seconded by Legislator Schneiderman. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0)**

IR 1904 - Amending the 2011 Operating Budget and appropriating funds in connection with bonding for a settlement for a Federal lawsuit. (Co. Exec.)

I make a motion to approve. Do I have a second?

LEG. D'AMARO:

I'll second.

CHAIRMAN GREGORY:

Seconded by Legislator D'Amaro. Legislator Romaine. See, I didn't even have to look, I just knew.

LEG. ROMAINE:

I ask questions because we have a verbatim record and we have great stenographers. And, you know, you want to make sure that the record reflects that we had some, you know, inquiry regarding this. The amount is?

MS. LOLIS:

\$460,000.

LEG. ROMAINE:

And this is as a result of a suit brought in Federal Court against the County?

MS. LOLIS:

That is correct.

LEG. ROMAINE:

Right. And I assume that this was a settlement, or was this a verdict?

MS. LOLIS:

Actually, it was both. It's a settlement after receiving a verdict.

LEG. ROMAINE:

Okay. Without getting into details, does this settlement require any corrective actions to prevent its recurrence in the future?

MS. LOLIS:

No.

LEG. ROMAINE:

Okay. Thank you.

CHAIRMAN GREGORY:

All right. We have a motion and a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0)**

IR 1906 - Authorizing the County Comptroller and County Treasurer to close certain capital projects and transfer funds. (Co. Exec.)

I make a motion to approve.

LEG. SCHNEIDERMAN:

Second.

CHAIRMAN GREGORY:

Seconded by Legislator Schneiderman. Legislator Romaine.

LEG. ROMAINE:

Yes. Thank you. As you know, we passed a resolution, I believe it was my resolution, to give an accounting of this. We have an accounting of this and where all those monies will be going; is that correct, Gail?

MS. VIZZINI:

Would you repeat the question, please.

LEG. ROMAINE:

I'm sorry. We're closing out these various accounting --

MS. VIZZINI:

Oh, the capital closeouts, yeah.

LEG. ROMAINE:

Where are we directing this money, just for the record?

MS. VIZZINI:

It's required that it be used to pay off debt service.

LEG. ROMAINE:

Thank you. And we are going to pay off debt service to the sum of?

MS. VIZZINI:
10.5 million.

LEG. ROMAINE:

Okay. So we are reducing debt service. I think that's an important point to point out, because, I mean, we have heard a lot of bad news. And we know the County is scrapping by during these very difficult fiscal times, but because we're capable of closing out these projects, we're going to be paying off ten and a half million dollars of bonded indebtedness. And I just thought it would be important to note that for the record. Thank you.

CHAIRMAN GREGORY:

Gail, how much are we going to be paying off in debt service? Should I ask how much in capital projects are we closing?

MR. LIPP:

Well, we paid debt service, I believe around for next year about 90 million in General Fund, about 124, I think, in all funds combined, if could recall off the top of my head.

CHAIRMAN GREGORY:

I haven't seen the listing of the capital projects being closed. Has that been circulated?

MR. LIPP:

It's an attachment to the resolution.

CHAIRMAN GREGORY:

Okay.

LEG. ROMAINE:

Online, right?

MS. VIZZINI:

Yes.

CHAIRMAN GREGORY:

All right. So we have a motion and a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0)**

IR 1912 - Directing the Department of Public Works to develop and issue RFP's for the sale and lease back of the H. Lee Dennison Building and the County Correctional Facility in Riverhead. (Schneiderman)

Motion to approve by Legislator Schneiderman.

LEG. SCHNEIDERMAN:

I have questions I need answered on my own bills.

CHAIRMAN GREGORY:

Seconded by Legislator Muratore.

LEG. SCHNEIDERMAN:

I'm glad, Gail, that you are there as well as Robert. This idea came about -- actually, Legislator Romaine put in a bill initially to look at Dennison Building. We, obviously, in the County's financial crisis are looking -- you know, all ideas are on the table at this point.

You know, one of the things we've been actually including in our budgets is the sale of property; property in Yaphank, property in Selden. Once you sell it, of course, you never get it back. And we're also selling it in a bad market, so we're likely to sell this property at a lower price than we might get if we held it. So another possible alternative is to look at property that's improved, buildings. In some cases, and I know this was the motivation that Legislator Romaine had, perhaps with Dennison, we could move reimbursable functions in terms of where we get the rents reimbursed through the State into a building like Dennison so that we can actually get reimbursements where we could not if we owned it.

I looked at the County Jail in Riverhead after Robert Lipp had presented an analysis of sale and lease-back, the bang for the buck on various buildings. And the Riverhead Jail can up as probably the greatest bang for the buck of all. Some had a little more bang for the buck, but smaller amounts of money involved. So the jail rated much higher than the Dennison Building. So I thought I'd do -- look at the idea of doing an RFP on those two.

Now, Gail, you sent me an e-mail saying that there are some legal hurdles. The first had to do with New York State not allowing -- under Corrections Law, the correctional facility to be operated by a private entity. I'm not at all considering having it operated by anybody but the County. It would just simply be potentially owned by a bank or an investment entity for a 20-year period while this -- you know, and then reverting back. But the operation would be entirely the County's operation.

MS. LOLIS:

If I may. I probably should have been a little bit more specific in that e-mail, Legislator Schneiderman. I apologize. The Corrections Law prohibits private ownership or operation. So there would be no way that we could do it with the Correctional Facility. It's a different story with the H. Lee Dennison Building. But as far as the Correctional Facility is concerned, that State --

LEG. SCHNEIDERMAN:

You just said operation, and I wanted to be clear that that was never my intent to have it operated by anybody but the County.

MS. LOLIS:

And I double checked that, and I double checked the law, and it did say ownership also.

LEG. SCHNEIDERMAN:

Okay. Now, in terms of Dennison, the issue that you raised -- if I can do this, I know this was a confidential memo -- but I don't mind if you don't mind discussing this. You said basically that the sale would have to be approved by a vote of the Legislature. Of course. This is an RFP, this isn't the actual sale.

MS. LOLIS:

With the Dennison Building, as I had also indicated to Legislator Romaine when he had proposed his bill, there are ways that it could be done. You would -- we believe after doing our research -- County Law, right now, 215 says in order for you to sell the property, you have to declare it surplus. If you're going to use the property after you sell it, then it is not considered surplus. And there are State Comptroller opinions to that affect.

We believe because we are a Charter County, we can pass a Local Law that can exempt that particular transaction from County Law 215. The only other hurdle that you have, and it's not clear from what you intend from the RFP, but as long as you do not intend at the end of the lease period to take the building back for a nominal amount, it can be done. There is a State Comptroller

opinion that has specifically found that if the intention is to lease it over a long period of time or whatever period of time you wish, and then to take it back for a nominal amount or for no amount, then that would be -- that would be an installment purchase and that would not be -- that would be prohibited under the Local Finance Law.

LEG. SCHNEIDERMAN:

And the idea that I've been operating under is that, yes, we would get the building back at the end. So you are saying that would be prohibited.

MS. LOLIS:

According to the State Comptroller, yes. You would have to purchase it back for a fair market value in order to avoid that.

LEG. SCHNEIDERMAN:

But that would then change, obviously, what we paid every month in terms of rent, because that was factored in that we're getting the building back. So the rent would go way down I would suspect. Is there -- can you put an option in that would allow -- that would guarantee the purchase at fair market, that it couldn't be sold to a third party?

MS. LOLIS:

I would need to research that a little bit further. I think you probably could.

LEG. SCHNEIDERMAN:

Okay. In terms of other buildings, if the jail is out -- Robert, you have analyzed this, were there any other buildings, you know, Dennison is obviously here, the County Center in Riverside or any of those buildings there? We have buildings in Yaphank. Were there any other buildings that came up high on your list?

MR. LIPP:

Yes, there were several facilities. I don't know if we should talk about it openly here, because it's --

LEG. SCHNEIDERMAN:

No, I can review that in private with you. We can look at it. So I guess at this point, I will -- I'm not sure whether I should withdraw or amend the bill. Certainly, we'll table it for now. It's probably not something that's going to happen this year. We obviously have to look at every option. You know, 2012 was -- we had a very difficult time with the budget, as you know, trying to close the holes and doing the best we could. By all accounts, 2013 may be even more challenging. You know, by doing an RFP, at least we can see what value we might get.

Once the recession ends, which we all hope is soon, we're going to be in much better shape. These are emergency measures just to get through the short term. If it's not viable, if it's not promising, then we don't have to go down that road. Just the idea of looking at is all this bill is about. So I will withdraw my motion to approve and change it to a motion to table.

CHAIRMAN GREGORY:

Anyone else?

LEG. D'AMARO:

I'll second the motion.

CHAIRMAN GREGORY:

Okay. Seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0)**

IR 1914 - Appropriating funds in connection with renovations to Long Island Maritime Museum (CP 7165). (Pres. Off.)

I will make a motion to approve. Do I have a second?

LEG. D'AMARO:
I'll second.

CHAIRMAN GREGORY:
Seconded by Legislator D'Amaro. Any questions?

LEG. SCHNEIDERMAN:
On the motion, where is the money coming from.

MR. NOLAN:
It's in the budget.

LEG. SCHNEIDERMAN:
It's in the budget? Okay.

CHAIRMAN GREGORY:
All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0)**

IR 1963 - Adopting Local Law No. -2011, A Local Law authorizing the sale of the County's ownership interest in the Residual Trust established under the declaration and agreement of trust by and between the Wilmington Trust Company and Suffolk Tobacco Asset Securitization Corporation. (Pres. Off.)

Has to have a public hearing. I will make a motion to table.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED for PUBLIC HEARING (VOTE: 5-0)**

IR 1964 - Repealing its cents per gallon rate sales and compensating use taxes on motor fuel and diesel motor fuel, thus restoring its percentage rate of such taxes, pursuant to the authority of article 29 of the tax law of the State of New York. (Pres. Off.)

I'm going to make a motion to table. Do I have a second?

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Seconded by Legislator D'Amaro.

LEG. SCHNEIDERMAN:
On the motion, because we did pass a bill the other day that repeals this and uses the money to offset the out-of-County tuition. This is, I guess, redundant in a way, right?

CHAIRMAN GREGORY:

No.

LEG. SCHNEIDERMAN:

No? George.

MR. NOLAN:

No. You took an action in the budget, but there still has to be this companion resolution that has to go up to Albany for the change in the sales tax to take effect. So if you want the change in the sales tax, you have to pass a resolution like this.

LEG. SCHNEIDERMAN:

But now the County Executive hasn't acted yet on that, so we don't know whether it's going to be vetoed, whether it will be overridden. So is this premature then?

CHAIRMAN GREGORY:

Right. I believe he has stated that he's going to veto it, so I take him at his word. So it's a little premature.

MR. NOLAN:

I would just -- you know, speaking for the Presiding Officer, who is the sponsor, is that with the sales tax resolution, there is lead time. Generally, the State likes to get these sales tax resolutions 90 days before it's effective date. So just -- that was the thinking why it was laid on as a late start at the last meeting.

LEG. SCHNEIDERMAN:

I'll second the motion to table.

CHAIRMAN GREGORY:

Yes, Legislator D'Amaro.

LEG. D'AMARO:

There's a second on the motion to table. I just wanted to ask BRO a question. I looked at the Fiscal Impact Statement, and it's saying that the full-year impact would be 12.3 million, and that's estimated at \$4 per gallon. And the \$4 per gallon referenced in the Fiscal Impact Statement, is that the wholesale price?

MR. LIPP:

Yes.

LEG. D'AMARO:

What is the wholesale price of gas today, do you know roughly?

MR. LIPP:

It's under \$4 definitely.

LEG. D'AMARO:

It's well under, isn't it? I looked at the price at the pump this morning, the retail price was about 3.57.

MR. LIPP:

Actually, I take that back. It is the gross price, the \$4, not the wholesale price. I'm mistaken.

LEG. ROMAINE:

The retail price.

MR. LIPP:

The retail price.

LEG. D'AMARO:

Oh, the retail price.

MR. LIPP:

Yeah. I take that back. But, yes, it's still under \$4, the current price at the pump for regular.

LEG. D'AMARO:

So if the retail price is at \$4 per gallon for a year, we estimate the 12.3 million.

MR. LIPP:

Correct.

LEG. D'AMARO:

All right. So the gas right now is less than that. I'm just concerned that would we have sufficient revenue to make up the shortfall for the, you know, the out-of-County tuition.

MR. LIPP:

That's a legitimate concern, number one. Number two, motor fuel prices are highly volatile. That being said, it's very difficult to project what it will be over the course of the year. So yes, that's a real concern. It's also a possibility -- and I don't mean to couch it this way, though -- that it could exceed \$4, and we could make more than that. But, yes, we could definitely wind up with less.

LEG. D'AMARO:

Rob, do you know what the wholesale price of gas is today?

MR. LIPP:

Not off the top of my head. I'd have to look at that.

LEG. D'AMARO:

Can you get me that information?

MR. LIPP:

Sure.

LEG. D'AMARO:

Maybe just send it to me in an e-mail today.

MR. LIPP:

Sure.

LEG. D'AMARO:

All right. I appreciate it.

CHAIRMAN GREGORY:

Legislator Romaine.

LEG. ROMAINE:

Yes. I share Legislator D'Amaro's concerns about this. It's evident that the \$12.3 million is predicated on retail price of \$4 where -- and by the way, with the base of \$3 where it's capped, so they are calculating one dollar more a gallon and we're maybe getting, you know, 50, 55, 56 cents, 57 cents more a gallon. That's a considerable difference from the base, that \$12.3 million. If we adopted the resolution, if we wanted to use money for that purpose, we would possibly create a whole in the budget.

Now, let's go back and just take a look at that. I want to say this for the record. The reason that Legislator Muratore put this in, this resolution, and we adopted it, is because several years ago, the State of New York for all their problems and all their difficulties capped gas at \$2. Their sales tax does not -- stops at two dollars a gallon. We tried to do that and it failed. It was tabled. And Legislator Muratore came up with an idea, well, let's try \$3 a gallon, and we passed that. And the reason for that is we were making a windfall profit off the misery of others, because essentially as gas went up, our revenues went up. And this feeling now, because we're starved for revenues, that we should be repealing this -- I just want to remind people why we originally adopted this.

New York State, despite all their problems, has not repealed their cap on gas, which has a huge influence on my constituents on the East End and Legislator Schneiderman's, because they are paying a great deal more, particularly on the South Fork, something that we should take into account.

The other thing is even if we were going to repeal this, and even if it was true that there was 12 and a half million dollars, do we want to do this for out-of-County tuition? Isn't that a number akin to the number that we have to plug for the remainder of the year in our half-year budget that we adopted? Yes. If mean if you have this money laying on the table and you want to throw the taxpayer overboard, there may be better ways to spend it. I don't think we've seen the worst yet. And I would keep our powder dry. And I think tabling this resolution makes eminent sense. And I would encourage my colleagues, if they're going to do anything with this cap, to work with its sponsor, Legislator Muratore, to make sure that we're moving in the right direction. Thank you.

CHAIRMAN GREGORY:

Legislator D'Amaro.

LEG. D'AMARO:

Right. Legislator Romaine, I think we are -- I just want to be careful we're not mixing apples and oranges here. The \$4 price we're talking about is retail. The cap is on the wholesale price. So right now, I would assume -- the wholesale price is always less than retail obviously. So I would assume it's probably 3.20, 3.30. So again, you know, we're not sure about the projection coming in at the 12.3 million. That's a concern. You know, it's a policy decision whether or not to use the added revenue from the appeal for the out-of-County tuition. But my concern -- the reason why I supported repealing this in the budget was because I've become convinced that taxpayers are not seeing the benefit. I just want to say to Legislator Muratore and yourself that if we can find a way that the savings reaches the taxpayer, I would support it. Okay? So that's the dilemma that we have. It's not reaching the taxpayer, the savings.

MR. LIPP:

Point of information. A retail price of \$4 would be consistent with a wholesale price that was -- would be about 55 cents or less. So in other words, the wholesale price would be -- if the retail price was \$4, it would be 3.45 wholesale price.

CHAIRMAN GREGORY:

Legislator Romaine.

LEG. ROMAINE:

I absolutely agree again with Legislator D'Amaro. He makes excellent sense. And there was a claim at our last Legislative meeting that the taxpayer or at least the motorists from Suffolk County are not seeing the benefit of this, and you know what? We should be looking into that. This was passed over a year ago almost. Almost a year ago. And if the benefit isn't being passed along, I mean, my first inclination is not to abandon the law, it's to ask our staff, the economists on our staff, the attorneys on our staff, what is mechanism that's preventing this from being passed along? Because if we pass laws and they can't be enforced, that's a major problem. I think this is not a problem of law as much as enforcement. And I'd like someone to take a look at a this.

It may be that there's flaws in the law, but obviously, we set sales tax on gasoline, we get half, the State gets half. They capped theirs at two several years ago. We capped our earlier this year at three, and we can't enforce that cap? We're allowing the wholesalers to walk away with the profit instead of the people pumping gas at the pumps? And there's no mechanism to cure that? I have to ask myself, maybe we're in the wrong business. Maybe governance isn't what we do well. But if it is, the laws that we enforce -- that we pass, need to be enforced. And if there isn't a mechanism, then we need to adopt a mechanism for doing that, because obviously, other levels of government have done this, particularly with gasoline and have been successful. I'm just flabbergasted that we haven't got a report saying, "By the way, the law that you passed had a flaw in it because it failed to do this or it failed to do that, and the wholesaler's walking away with the profit," which was alleged, I believe, by Legislator Cooper, "and the guy pumping the gas isn't getting the benefit."

My question is why not. Where is the flaw in this system? What is it that we have to cure? I want to know that before I even vote for a repeal, because I'll be voting on other laws that I think are going to be enforced, and I found out they are not. And I would encourage all of my colleagues, we have three jobs as Legislators; one is to write and vote on legislation; two, serve our constituents with constituent needs that we get in; and three, a function we don't do enough of is to exercise oversight over this County Government. And we have not exercised enough oversight -- if this was a flaw -- the first time I heard of this flaw discussed was at our last Legislative meeting by Legislator Cooper.

LEG. D'AMARO:

No. It was discussed when we first passed the bill, Ed.

LEG. ROMAINE:

I remember that, but then no one followed up, so I assumed that that was just a statement made. Obviously, we want to make sure that our laws are being enforced. Thank you.

CHAIRMAN GREGORY:

Legislator Schneiderman.

LEG. SCHNEIDERMAN:

All right. Well, Ed, you know, we keep going back to the savings not being passed along to the consumer. And I'm not sure actually at this point there is any savings. I want to go back to math a little bit, because of the numbers that Robert just brought up. So I think -- first of all, the cap is -- \$3 is a wholesale price cap. This 12 million is based on a \$4 retail price or wholesale price? Retail price. And you said a \$4 retail price would translate to a \$3.45 wholesale price.

MR. LIPP:

Actually, I am going to revise that, because I'm looking at my numbers as we were speaking and it's really like 3.70.

LEG. SCHNEIDERMAN:

Okay.

MR. LIPP:

There are several excise taxes in addition to the sales tax that have to be calibrated right, so.

LEG. SCHNEIDERMAN:

So \$4 retail would translate to 3.70 wholesale?

MR. LIPP:

Correct.

LEG. SCHNEIDERMAN:

I mean, a 3.70 -- yeah, 3.70 wholesale. So if gas right now is selling at \$3.50 on the average, that sounds like that would translate to a wholesaler about three -- a little over three -- just other three.

MR. LIPP:

Say that again. If gas is at 3.50, it would be 3.20.

LEG. SCHNEIDERMAN:

Three-twenty.

MR. LIPP:

The wholesale.

LEG. SCHNEIDERMAN:

So basically the cap is applying to that 20 cents, right?

MR. LIPP:

Correct.

LEG. SCHNEIDERMAN:

Because the cap is a wholesale cap at three, so that sounds like that's going to be a lot less than the \$12 million we're talking about.

MR. LIPP:

Right. As I said, the estimate was based on a \$4 retail price for gas.

LEG. SCHNEIDERMAN:

Four dollar retail?

MR. LIPP:

Clearly -- retail price, yes. Clearly, the revenue would be less if the gas prices were lower. And clearly, the revenue would be more if they were higher.

LEG. SCHNEIDERMAN:

Because we've been looking for this basically, this \$12 million being passed down to the consumer, but there may not be 12 million to pass down. It may be in the neighborhood of a million being passed down, which might be very hard to see.

MR. LIPP:

It's also debatable to what extent the tax is passed on or not at any price.

LEG. SCHNEIDERMAN:

Well, you know, the information that was presented at the Legislature, I could not draw a conclusion from, because it was Nassau versus Suffolk, and Suffolk has always tended to have higher gas prices than Nassau because of this zone pricing, because the distributors claim they have to transport the gas further, so they charge more to the service station for that gasoline. So, you know, unless you go back far enough and compare the two so you have a decent baseline, it would be very hard to make the determination. We also need to know how much we're looking for. It's 3.20 versus -- you know, if it's that small of a number, we may only be looking at very small differences between Nassau and Suffolk adjusted for that price differential that exists because of the distance. Are you following what I'm saying, Robert?

MR. LIPP:

There are ways to try to estimate the extent to which it's passed on to the consumer, but -- and I could bore you with the economics of it, but I won't. If you want, I could bore you --

LEG. SCHNEIDERMAN:

All I'm saying is based on what I see, I can't determine that it's not being passed down, but we don't even know what's supposed to be being passed down yet. It might be a very small amount of money. I'm concerned about that \$12 million estimate, because let's say -- and this is what I think Legislator Romaine was saying -- let's say we did do this. We might blow a hole in the budget, because it's really not 12 million that we're getting, it's really two million. And if we do it for out-of-County tuition, now we've got to cover, what, an additional \$8 million worth.

MR. LIPP:

There are two things I could say to that. Number one, as I said to Legislator D'Amaro before, the gas prices are very volatile. And number two, I think Joe Schroeder -- I'm not sure exactly what he has, but I think he has information on that. That being said, here's Joe.

MR. SCHROEDER:

I just was responding to what I was hearing over the PA. The current wholesale price based on one estimate is roughly \$3.44 a gallon. That's a national number. And the commodity, the refined commodity cost is averaging about 85 to 89 cents higher year-to-date this year versus the same period last year.

LEG. SCHNEIDERMAN:

How could it be wholesale for \$3.44 and at the pump at \$3.50? That's a national average, Joe, right?

MR. LIPP:

Also understand that the \$4 illustrative retail figure is for regular gasoline. In reality, the actual tax is a blended number; it's mostly regular, but it's also high-test and other grades, like diesel.

LEG. SCHNEIDERMAN:

I mean, I don't know how we use that national -- we need to know what Suffolk's average wholesale price is. You don't have that?

MR. LIPP:

We can get that information for you, but understand, as I said to Legislator D'Amaro, energy prices are highly volatile. You know, even if we had an exact number, whether it was \$4, \$3, \$5 today, I'm just purposely making up numbers, tomorrow, it could be significantly different.

LEG. SCHNEIDERMAN:

We know that the out-of-County tuition, that if we take that on, that to the County will be, what, a

\$10 million expense, right, something in that neighborhood?

MR. LIPP:

In the budget, it's ten-and-a-quarter million dollars that we would have to cover.

LEG. SCHNEIDERMAN:

Right. But if we offset it with this removal of the gas cap, we don't know if we're going to have adequate money. Based on numbers you are saying, it may be far less.

MR. LIPP:

Understand, good, bad or indifferent, you passed the budget amending resolution to do that. So without this, there's something you would have to unwind there.

LEG. SCHNEIDERMAN:

Because you told us basically that it was an equal amount of money, but now it doesn't seem like it adds up. It's not \$12 million savings, it's maybe two million savings by removing this cap.

MR. LIPP:

And it's maybe \$15 million depending on where our prices go.

LEG. SCHNEIDERMAN:

I understand that, but based on where we are today with prices, using that as your best guess, two million maybe.

MR. LIPP:

I don't think that that's the case, no. I disagree.

LEG. SCHNEIDERMAN:

Maybe you can recalculate that based on a wholesale price around \$3.20. I'll yield to Lou.

MS. VIZZINI:

I just asked Mr. Schroeder to do some research for the committee in terms of what wholesale prices are now, what the projections are for 2012, how the gasoline revenue -- Robert will pick up on what the revenue projections are as it relates to what the wholesale gasoline projections are.

CHAIRMAN GREGORY:

Legislator D'Amaro.

MR. LIPP:

I could provide a little more information right now. I would say today probably -- I mean, I don't buy gas too often because I have a very fuel-efficient car. That being said, I would venture to say that regular gas is probably in the neighborhood of 3.75 now, okay, retail, okay? Anyhow, at 3.75 -- we'll give you different numbers if you'd like. You want 3.50? Okay, you get 3.50. We'd get a little over \$3 million for it.

LEG. SCHNEIDERMAN:

Three million is a long way from 12 million.

MR. LIPP:

True.

LEG. SCHNEIDERMAN:

That's about my calculation too. That's important, because if we were offsetting it -- it could go

either way; the price could go up, the price could go down. All we know is what it currently is. And the three million is not going to cover that out-of-County tuition.

CHAIRMAN GREGORY:

Okay. Legislator D'Amaro.

LEG. D'AMARO:

Thank you. I just want to go back to something Legislator Romaine said about -- I guess the issue is do you repeal this now or do you leave it on the books and try and find a way to enforce it? I want to try to find a way to enforce it, but I don't think we leave it on the books right now. I mean, it amounts to, like, a tax break for oil companies in effect, because these gasoline wholesalers are pocketing the revenue that we intended to reach the taxpayers. And to me, I'd rather get this null and void and off the books as soon as possible, because the benefit is not being passed on to taxpayers. And then, you know, let's figure out way, if there is a way, that we could put the law back on the books and then have taxpayers benefit. So, you know, it's really a timing function, putting aside the whole issue of whether or not we're even going to get sufficient revenue to cover the out-of-County tuition costs. You know, in good conscience, I can't leave a law on the books that on a daily basis, gasoline wholesalers and oil companies are benefitting when the intended recipient was a taxpayer. I think it's unconscionable to leave it there.

CHAIRMAN GREGORY:

And now I second Legislator D'Amaro's comments. My reasoning for compiling these two issues, which are apples and oranges was just solely was I was against passing on that cost to the individual towns, speaking of the out-of-County community college costs, which is a mandate I totally 1000% disagree with. But I also don't think it's appropriate to leave in place a cap that's not meeting it's intended purpose as well. I think we've raised enough questions. I think at this moment, it's probably appropriate that we table it -- table the bill and pick it up at our next meeting. We have a motion and a second. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0)**

CHAIRMAN GREGORY:

All right. That's it for our agenda. We stand adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 10:54*)