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 29, 2011.

Members Present:
Legislator DuWayne Gregory - Chairman
Legislator Jay Schneiderman - Vice-Chair
Legislator Ed Romaine
Legislator Tom Muratore
Legislator Lou D'Amaro
Presiding Officer William Lindsay - Ex Officio Member

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
Christina DeLisi - Aide to Legislator Schneiderman
Justin Littell - Aide to Legislator D'Amaro
Eric Kopp - County Executive's Office
Marge Acevedo - Aide to PO Lindsay
Kevin Beyer - Long Island Gasoline Retailer's Association
Michael Watt - Long Island Gasoline Retailer's Association
Rudy Massa - Gasoline Heaven
Eric Nygard - AME
Dot Kerrigan - AME
Anne Marie Leonard - AME
Dan Farrell - AME
Richard Meyer - AME
All Other Interested Parties

Minutes Taken By:
Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:02 A.M.*)

CHAIRMAN GREGORY:
We're going to start off with the Pledge of Allegiance.

SALUTATION

Welcome to today's Budget and Finance and Information Technology Committee meeting. We're going to head into the public portion. We have four cards and no timer. Okay. We have Kevin Beyer. Yes. Good morning.

MR. BEYER:
Good morning. My name is Kevin Beyer. I'm the President of the Long Island Gasoline Retailers Association. I'm here to speak on the Tabled Resolution 1964. I'm a little hoarse this morning, so I'm sorry for that. I have with me Rudy Massa, who is from Gasoline Heaven and Michael Watt, who is the Executive Director of the Long Island Gasoline Retailers Association.

Suffolk County was -- you guys implemented cents per gallon collection over the other counties in the state, which was probably one of the best things you did and a smart thing to do, so to repeal this, this is not a smart thing in our opinion, because right now, you know what you're getting. Based on the gallons sold in the County, you know you're getting your seven cents, you can project what you're going to get as far as finance and the sales tax collected.

We have charts to show that you actually make money, more money -- when the price of gas was below -- I think we hit it around two -- close to $3 -- you were at seven cents. The other counties weren't getting that type of revenue back. When it's over that, you were -- the break-even I think was close to, like, 2.30 -- I'm sorry, 3.30 and that's where there was a break-even point. And now that the price has been higher than that, you might feel that you are losing. But for a long time, you guys were -- we were making more.

The bottom line is that you know exactly what your revenue is going to be instead of going back to this percentage base that you were. The percentage base is difficult to audit, it's difficult to deal with as far as we are concerned and you're concerned. You're not able to know exactly what's projected in your budgets. It's so much easier the way you guys went to it. And we were hoping that the other counties would follow suit with what you did.

One of the other things that we were talking about, we know that the County is hurting on the sales tax end, and we've brought it up several times, that we feel that the County should get the tax paid right from distributors or at the terminals versus waiting for us, the dealers, to pay the tax, because what's happening is you have underreporting going on, so you're getting not the revenue you're expecting because there's so much underreporting, especially as the tax goes up, as the price goes up. What you have is you have two -- it's a two-pronged effect; you have bootlegging going, which is gasoline that's being brought in untaxed across state lines, that's one issue, but then you have the big issue which you can actually control and make a big difference in, which would be collecting the tax at the terminal. It's less auditing for you, less reporting, and it works for all of us.

If the money is collected upfront, especially when you know it's cents per gallon, it's collected upfront, you know exactly how much it is that you are getting, and there won't be -- it will get rid of the unscrupulous people in this business. You will see your revenues jump tremendously, because you're losing millions of dollars a month guaranteed when it comes to gasoline. You're losing that type of revenue because it's not something that easily can be tracked. Because you're trying to deal with hundreds and hundreds of dealers, you're not going to audit hundreds of dealers every single month. But if you're dealing with the distributors and their terminals are collecting it right at the terminal and it's being collected at the terminal, you know what your revenue is going to be. And you're going to eliminate at least all of the fraud that's going on that way, where the dealers can underreport -- I'm not saying everybody's underreporting, because that's not the case, but you do have a lot of it going on.

And like I said, the higher the price goes and the higher the taxes, you're going to have people doing that. And it's hard to audit that way. But if you're dealing with just the terminals, you've got Holtsville terminal, and if they're required to collect it right there all upfront, it makes it easy for all of us. And you have people that are honest in this business that get caught up in sales tax problems, because by the end of the month, they owe 15, $20,000 that wasn't their money that they were collecting, and they're using it and spending it, and now they don't have it to pay the sales tax. So then you do have people that end up in trouble with that too; honest guys that just can't make that payment at the end of the month, because they used money that was sales tax money that wasn't their money.

So this is why I'd like -- you know, this is a two-pronged approach. I would love for you guys to try to implement something as to collect it right at the terminals through the distributors. And I've spoken to the distributors, the distributors would like that also, because the legitimate distributor is going to be happy, it will get rid of the illegitimate distributor. You're going to see your revenues increase tremendously because of this.

CHAIRMAN GREGORY:
Thank you. Anybody have any questions? Legislator Schneiderman.

LEG. SCHNEIDERMAN:
Now I have all kinds of questions. In sales tax, there's three components; not all of it goes to the County, some of it goes to the State, some of it goes to the MTA. It only makes sense to have one point of collection for those three -- for the total sales tax. Now, with gasoline, there's also, I guess, surcharges involved too. There might be a Federal surcharge. So you get this -- it's a more complicated picture than let's say going to the store or going to a restaurant or something. You are suggesting that we tax the wholesaler, right, which is a lower base than the retailer?

MR. BEYER:
No. What I'm suggesting is -- we're paying the same amount regardless. I'm saying collect it right upfront, collect it at the point -- from the terminal. The distributor pulls up to the rack, have that -- the other taxes are already in that --

LEG. SCHNEIDERMAN:
But the wholesale price is lower than the retail price. We tax the retail price.

MR. BEYER:
You're collecting right now -- you're getting seven cents per gallon coming back to the County.

LEG. SCHNEIDERMAN:
Seven cents?

MR. BEYER:
That's the County portion.

MR. MASSA:
If I may, please? When we buy gas -- I'm with Gulf. When we buy gas, we pay prepay fourteen seventy-five, so it's fourteen and three-quarter cents a gallon to Gulf Oil. Based on the old formula, whatever your price was -- I have a chart here. For instance, the chart here says if you sell gas at 3.25 a gallon, I'll just take an arbitrary number, sales tax to be collect would be twenty-one four. So we already paid 14.75 upfront to Gulf, and the seven cents we pay to you. So at 3.25 to 3.30 would be the break-even number. But if you went back to the old formula and went below 3.30 a gallon, which could possibly happen, because the world seems to be settling down a little bit here, you're going to get less money. The old charts were based on the price. So forget about the $4 a gallon, fellows, those days are gone. So you may be seeing less revenue, but one of the reasons you're seeing it is because the price of gas -- last year -- I checked my records -- we were 2.99. So based on last year's 2.99 price, you would have got a lot less than you're getting today.

LEG. SCHNEIDERMAN:
Is the State's component a sales tax? Are they capped at a particular price?

MR. BEYER:
They're collecting at the terminal. In other words, our bill comes, our invoice comes with that already taken out.

LEG. SCHNEIDERMAN:
They have a cap too on gasoline or no? Does the State have a cap on two dollars a gallon, is it?

MR. MASSA:
It's not -- I guess we might be confusing this a little bit. Basically, the way it always worked was based on your selling price, there was a sales tax attached to that selling price. Because there was so much thievery -- and I've been in the business since the '70s and through gas shortages in '73 and '79 in Commack, I've been around for what seems like forever. But the issue was we've always played it straight and we've always been fighting this influx of whatever people got into this business, they've changed the complexion of the gas business over the last 25 years has been incredible. But I think you guys know what I'm talking about.

The issue was, though, you would sell gas at a certain price and you'd owe, let's say, 22 cents a gallon. They decided -- because there was so much thievery, they forced the oil companies -- so Gulf collects, on an item on my invoice, 10,000 gallons at 14.75 cents a gallon, and I prepay it to Gulf at the, what we call rack, but it's really not the wholesale price. It is really based on the retail price. Then I'm obligated to pay the balance. So if I sell gas at $4 a gallon and the additional tax was ten cents, I've got to calculate my gallons at the end of the month and pay the State -- New York State sales tax, ten cents a gallon.

LEG. SCHNEIDERMAN:
All right. So you collect the difference between what the rack price that you -- it's confusing -- and then you have these caps in place. The County has a cap at $3 a gallon. The State -- I'm trying to figure out whether the State has a cap.

MR. MASSA:
I wish I would have brought an invoice. If you heard the line items on these things, you'd be --

LEG. SCHNEIDERMAN:
It sounds like you need a degree in calculus to figure out what the sales tax is.

MR. BEYER:
That's why we say it would be so much easier for you and better to collect it at the terminal. It's the same amount of money either way. You eliminate all the nonsense going on and all the fraud. The County is losing millions and millions of dollars.

MR. MASSA:
What Kevin is referring to is that guys -- the good guys don't underreport. So it would be like you underreporting your salary. That's basically what you're talking about. So guys that would sell 100,000 gallons of gas a month just simply report to the State they sold 50 and take a chance that they're not going to get audited. And so they're only paying sales tax on 50. Now, if that fellow had to pay that upfront when he bought it at the terminal, that would eliminate all that completely.

MR. BEYER:
You will collect a lot -- you'll collect the money that's due.

LEG. SCHNEIDERMAN:
But all the gas pumps are metered. It's not that hard to audit to figure out that the guy is lying if what you're saying is true.

MR. BEYER:
What I'm saying is definitely true. And this is exactly what's going on. When you see prices out there that are so far off than anything else -- the only way they're able to price the way they're doing is because they're not paying you your tax or they're paying New York State their sales tax (sic). That is what's going on. Just like Rudy says, you're not going to go around to 700 stations every month to say let me see the records and let me see what you've paid, because you're not -- you are relying on us to report it. But if you did it at the terminal --

LEG. SCHNEIDERMAN:
It's something we could potentially audit. And it's an allegation you're making, you know, I obviously can't confirm.

MR. BEYER:
I've been the president for six years, I've been in this business since I'm 17 --

LEG. SCHNEIDERMAN:
If we're losing millions of dollars, we ought to look into it and try to get it. You also mentioned something that you refer to as bootlegging, you know, from out-of-state. What were you talking about with that.

MR. BEYER:
Before we even get into that, I just want to step back on to this topic for one minute. If the County does this and does look to do this the way you've done the seven cents, which I thought was phenomenal, it's a smart way, the accountants love it, we love it, I mean, I like it, anybody's that's legit likes it this way. And let me step back maybe to explain it a little easier. If you have 20 distributors that are collecting the taxes and it's being collected right upfront, it's that much easier for the County to know exactly what went through the terminals and how much money they're due. It's just that much easier. There's no underreporting at that point because the terminal is putting right on to the slips, and that's it. You're collecting it upfront. That's -- so that's number. That's why we're saying to definitely -- to try to go that route and also stick with the cents per gallon and do not go back to a percentage. If you adjust the cents per gallon, but don't do a percentage, because what you guys have done is leaps and bounds above any of the other counties.

As far as bootlegging, what happens is there's no tax on the gasoline from Jersey. And what they do is they actually invoice it, so it's going to be very difficult for you, but we're looking -- we've actually asked many times for a task force to get involved with this. What happens is the gasoline from Jersey, they'll bill it to a station in Jersey so the sales tax is not in there, and they'll bring it over state lines, bring it into Long Island. And there's a lot of it that does go on. And what will happen at that point is they're dropping the gasoline, they're not reporting anything, so those thousands and thousands of gallons are just -- there's no tax on it at all, because none of that State sales tax is being collected.

LEG. SCHNEIDERMAN:
So there's no sales tax in the first instance, that first portion you talked about from the distributor, but then there's sales tax when it's sold at the retail pump.

MR. BEYER:
Yes. And guess who is collecting that. The retailer. You are not receiving any of that. So what's happening is that's all -- none of that is being reported.

LEG. SCHNEIDERMAN:
We're not collecting tax on the full amount, only on that excess between the distributor price --

MR. BEYER:
If they took a truck from out-of-state for 10,000 gallons, you're not seeing anything from that 10,000 gallons, because that's going to not be reported.

LEG. SCHNEIDERMAN:
Because it's as if the gas never existed.

MR. BEYER:
Exactly.

LEG. SCHNEIDERMAN:
Right.

MR. BEYER:
That's why I'm saying at least if we went this one approach, we're attacking half of the problem.

LEG. SCHNEIDERMAN:
Whether or not we repeal the cap on the tax -- and I understand you're saying it's easier if we have the cap -- you have given a whole bunch of other things that we need to look at; places where we might be getting ripped off a considerable amount of money. I just wanted to ask, because it came up in the debate about the cap as to whether the consumers were actually getting the relief from it. My back of the envelope calculations seems to say the relief is relatively small at the current prices for gasoline. But is it being passed on, or are the retailers just keeping the prices the same as, let's say, Nassau County and pocketing that?

MR. BEYER:
No. Let me explain how it works. It does get passed on. The way it works is if I'm working on -- I won't go by yesterday because price was up yesterday -- but the -- let's say you guys -- you reduced it by the five cents that day. If gasoline went up five cents that day, you're not going to see a big change on the street at all, because it was reduced and it went up. So it's actually a flat thing.

What's happening is if I'm working on 20 cents a gallon or 15 cents a gallon and now you implement that the tax has to be -- you know, we're putting back that five cents, well, that has to go back out on the street to collect, otherwise I'm going to have to eat that five. So, yes, there is a savings to the consumers. Do you see it -- the problem is, like, it's so complex that you're not going to see it because gas fluctuates so much, but you will see a price go up. Like yesterday, the gas prices went up. So if you implement that you're going to put this back on, gas prices went up, so it might not go up five cents, it might go up the eleven cents, because yesterday gas was up six cents.
So now if you put back on the five cents --

LEG. SCHNEIDERMAN:
But if you're a retailer and you have this cap on the sales tax and, you know, without it, let's say, gas would be five cents more, there might be an inclination to say, "Well, I'm not going to reduce it by five. They're used to paying this price so I'll just keep charging them this price, and I'll keep the five cents."

MR. BEYER:
You know what? It fluctuates every single day to us. We work on our margins, so that's what we're going to stay with.

LEG. SCHNEIDERMAN:
So you're saying the cap actually is leading to lower prices for the consumer?

MR. BEYER:
It definitely is, because if I'm working on 20 cents and now you're throwing the five cents back out there, I have to throw another five cents back out there.

MR. MASSA:
If I may, when you guys did that and I realized that I was going to pay less, I reduced my price. It was just that simple. One thing we have to get clear here, I don't know why, but Newsday and everybody reports oil. Forget the oil price. I know it's going to sound corny, but oil is 60 to 90 days out. Check CNBC any day you want, put CNBC on, look at the screen and you'll see the word gas come up. They trade refined gas as a separate item from crude oil, from heating oil, from diesel. That's what we pay. We pay the refined gasoline price. That's what Gulf Oil buys on Long Island. They have no terminal here. They buy refined gasoline. So that's the price -- that's why my customers say to me all the time, "Oil went up yesterday, why did you guys go up?" Well, it wasn't the oil that went up that I was concerned with. My price of gas went up. And if you're only making, like he said, 15 -- and there's been days where it swings ten cents. Somebody throws a bomb in Iraq or something and the speculators go crazy. How could you possibly absorb a ten cents increase when you're only making 15? So you just simply have to raise the price.

But the key with this sales tax thing, besides these guys underreporting and besides bringing it from Jersey, some guys actually cheat on the price. So in other words, when you're thinking, all right, they're 3.59, but they're only reporting 3.49, the sales tax department would need guys -- they would need an army of people that they can't even afford to have to sit outside a station to say, "You said 3.49 but you were actually 3.59 that day." I mean, there's hundreds of gas stations. This flat tax thing would eliminate all of that. And I can tell you a slew of accountants come into my deli and they come into my business, and they love what you guys did, because it's a clear-cut thing.

LEG. SCHNEIDERMAN:
Last question. In terms of auditing this, it just seems to me that most people pay at the pump by credit card, right?

MR. MASSA:
Fifty percent.

LEG. SCHNEIDERMAN:
No. Higher than that. I don't know that many people that pay by cash. Most people are putting the credit card in. It seems like we could audit that. That seems pretty audit-able.

MR. BEYER:
We keep going back to auditing, but it's so much easier if you implement what we're looking to go toward, which is at the terminal, then you're dealing with, like I said, a handful of distributors at the terminal. It's not easy to audit the gas stations. And why put the burden on everybody?

LEG. SCHNEIDERMAN:
The cash is hard to follow, but the credit cards are easy.

MR. BEYER:
But the gallons are the easiest thing to follow. The gallons are the easiest thing. You can follow the gallons right at the terminal. And the County knows exactly what's due to them. It's the perfect way to do it.

LEG. SCHNEIDERMAN:
And the County checks those machines and they make sure that they're accurate in terms of gallonage.

MR. BEYER:
The terminals are going to have all those records. They are collecting it upfront. It's the way to do it, right there at the terminal. And you eliminate a lot of this other nonsense, and you'll eliminate all the underreporting. You won't even have to worry about it, and you'll get your millions of dollars that you're losing.

LEG. SCHNEIDERMAN:
Are those machines locked? You know, could a retailer adjust the gallonage and say, "Ugh, instead of selling 10,000 on this pump, I've only sold five"?

MR. BEYER:
That's exactly what we're saying.

LEG. SCHNEIDERMAN:
Can they do that?

MR. BEYER:
But if you do it at the terminal, they can't do it.

LEG. SCHNEIDERMAN:
Is it like an odometer on a car, you can't turn it backwards?

MR. BEYER:
Nobody is coming in and looking at the meters. It's too complicated. That's not going to happen. That's why we're saying the best way to do it is go right to the terminal, it's cut and dry.

MR. MASSA:
Gentleman, wouldn't it be easier to audit 12 distributors? I mean, I'm going to be honest with you. In the 30 years I'm there, 35 years, I had two sales tax audits, and pretty proud of it, both times I had no change. So they wasted three weeks going through books, and I had to pay an accountant a couple of thousand of dollars. They had no change, because I just simply don't play games. The point is that it takes a long time to do these audits.

MR. BEYER:
It's cumbersome on the honest guys.

LEG. SCHNEIDERMAN:
I'll turn things other to my colleague to the left.

LEG. D'AMARO:
Okay. So we're at the 300-level course, I need to go back to the 100-level course here. All right? So bear with me. This is my understanding of how this system works, and this is probably a little simplistic. And it's in the context of we had -- the Legislature and the County had put in place a cap on the amount of sales tax we would collect, that cap would kick in when the wholesale price of gasoline reached $3 a gallon. All right. That was the way the bill was written, and that was my understanding and I think everybody's understanding.

So the way I thought it worked was a wholesaler buys gasoline at a certain price from I guess a distributor or from an oil company, I guess. So that wholesaler buys that gasoline at a certain price. When that price reaches $3 per gallon, there is no longer any sales tax applied to the amount above $3 a gallon for the County portion. Okay.

So let's assume that the wholesale price -- is it $3 a gallon. Am I right? Yeah. So let's assume that the wholesale price -- I'm going to an oil company to buy 10,000 gallons of gasoline and I want to fill up -- I guess you fill up a truck with gasoline. So you pull up there and they say, "Okay. The wholesale price to me is going to be $3.50, all right." So at that point, I would pay tax on up to $3 a gallon but then not the County tax on the remaining fifty cents. All right. So I got that remaining portion of the gasoline at somewhat of a discount, because there was no sales tax on it.

The purpose of this bill was to take that discount and get it to the ultimate consumer. So first question, before we get into how do we change the system and make it better, the way the system is working now, is that discount that's in place that the wholesaler benefits from when buying from an oil company, is that ultimately reaching the consumer?

MR. MASSA:
Yes.

LEG. D'AMARO:
It is? Definitely.

MR. MASSA:
In my particular case, as I said, when I realized that we were going to go to a cents per gallon versus the percentage, I wanted to be more competitive. That's the nature of this kind of business.

LEG. D'AMARO:
I don't understand that distinction. What are we at now?

MR. MASSA:
Cents per gallon.

MR. BEYER:
The cents per gallon versus a percentage. So right now, it's seven cents. It's a flat seven cents that the County is receiving back.

LEG. D'AMARO:
How could that be? You mean based on the cap?

MR. BEYER:
Because it's based on -- the way they went from the percentage base, is they went to a cents per gallon. The County went to collecting on a cents per gallon. Like the total tax is twenty-one seventy-five.

LEG. D'AMARO:
So the County right now, when we collect our sales tax from the wholesaler right -- in other words, the tax on gasoline is cents per gallon. You are saying that the County amount collected is seven cents per gallon sales tax that comes back to Suffolk County. But who are we taxing that seven cents per gallon to?

MR. BEYER:
Ultimately it's on the consumer.

LEG. D'AMARO:
It's on the consumer. We are not talking here today about going back to a percentage as opposed to cents per gallon. Why are you under that impression?

MR. BEYER:
Because if it's repealed, that's what it's going to go back to, a percentage, and I feel that that --

LEG. D'AMARO:
So you're saying by having the cap in place allows you to go to a fixed -- to a cents per gallon cost, that's what we did.

MR. BEYER:
It's what the County did, which was smart. It was the best thing you guys did, because you actually know what your revenue should be also based on the gallons sold in the County regardless of the fluctuation of price. You know if there was 10 million gallons sold, you're getting seven cents on those 10 million gallons.

LEG. D'AMARO:
And that's only because the cap is in place.

MR. BEYER:
Not only is it because the cap is in place, but because you went to a cents per gallon instead of a percentage basis.

LEG. D'AMARO:
All right. I don't remember doing that, but I guess -- okay.

LEG. SCHNEIDERMAN:
I'm trying to figure out where that seven cents comes from. So the County tax on gasoline isn't the 4% that we charge on everything else, it's a smaller amount?

MR. BEYER:
You had changed that -- the law changed last year.

LEG. D'AMARO:
Are you saying regardless of the fluctuation in price, the County imposes seven cents per gallon tax whether gas is at $2, $3 or $4?

LEG. SCHNEIDERMAN:
If I went out and bought something for $3 right now, I would pay 12 cents in tax, County tax, because out of 8.62%, four of it, 4% goes to the County, four to the State and the other to the MTA. So that 4% on $3 is 12 cents. I don't know where this seven is coming from, unless the tax --

MR. BEYER:
I think it was based on the price at the time when you put the law in place.

LEG. SCHNEIDERMAN:
It doesn't make sense.

MR. MASSA:
I got a note in the mail --

LEG. D'AMARO:
Can I just finish my thought here? I really appreciate your help here. If that's true, if we tax seven cents per gallon irrespective of the price at the pump, then does the cap have any affect?

MR. BEYER:
Yes, because we know exactly -- we work on -- I'm not working on a percentage, I'm working on a cents per gallon. If I'm working on ten cents a gallon and I know that seven cents is in there, obviously, I have to be 17 cents above.

LEG. D'AMARO:
So you kind of back into it in a sense.

MR. BEYER:
That's exactly what you do.

LEG. D'AMARO:
Okay. So if I'm a wholesaler and I want to buy gas to distribute from the oil company, and I know that the County is going to impose seven cents per gallon tax when it gets to the retail; is that right, by the time it gets sold at the pump? Is that where the seven cents per gallon is imposed?

MR. BEYER:
It will be on the pump.

LEG. D'AMARO:
On the pump, okay. So the price I'm paying for that gasoline wholesale calculates into it that sales tax.

MR. BEYER:
Yes. Either way -- but that's why we're saying since you already know how much it is, it should be collected right at the terminal. It makes it easier for everybody.

LEG. D'AMARO:
So right now, it's not collected at the terminal. The County is collecting it from the retailer.

MR. BEYER:
Correct, as we're reporting.

LEG. D'AMARO:
Collecting the sales tax based on industry reporting, the retailer reporting and then imposing the tax and collecting it from the retailer who's theoretically collecting it from the consumer, right? You are saying that if you're going to wind up taxing all the gas that flows in Suffolk County anyway, why not tax it at the base of the funnel, so to speak, where maybe you have ten or 12 distributors that are picking it up off the rack, as you say, and then as those gallons flow into their trucks, just charge the tax there, and then it can be passed down. See, I thought that was happening now.

MR. BEYER:
No. That's why we feel it's the best -- there's only a portion of it that's taxed that way. The 14.75 cents per gallon is being collected upfront. We're saying collect the whole thing upfront.

LEG. D'AMARO:
In other words, you are saying that I, as the wholesaler, when I buy from the oil company, I am paying a sales tax on the price I'm being charged, but I'm not paying the sales tax on the ultimate price that it would be sold at, which is fixed when you buy that gasoline wholesale; is that right? It's based on what you're paying?

MR. BEYER:
Well, it's being fixed because you're at seven cents a gallon. But that's why we're saying collect it all upfront; you already know what it is, it eliminates all this nonsense, and you're -- the bottom line is that the County needs money and that's a way to get millions of dollars.

LEG. D'AMARO:
Okay. I understand that, and that's a different issue. But let me ask you this: So when I am the wholesaler buying from the oil company and I am paying some sales tax based on my price, all right, if that price goes above $3 a gallon, I'm capped on my sales tax, right?

MR. BEYER:
Seven cents.

LEG. D'AMARO:
Right. But because of that, you are saying that the price ultimately to the consumer at the pump will be lower, because I paid less tax. And you are confident of that. Because our thought was that what prohibits the wholesaler from just pocketing that difference? How does that ultimately reach the pump?

MR. BEYER:
Because it's still competition on the street.

LEG. D'AMARO:
As an industry representative, you are telling me that you are confident that that savings is reaching

the ultimate consumer with that cap in place.

MR. BEYER:
I absolutely feel that way.

LEG. D'AMARO:
All right. That's what I need to know.

MR. MASSA:
Yeah, I feel that way too. And I think that like, let's say, tomorrow morning, just for argument's sake, you change it, I'd have to raise the price. There would be no doubt I'd have to raise the price. I want to correct one thing if I may, please. We're not really wholesalers. We are the retailers. Think about it. You have Gulf on Long Island, you have Mobil on Long Island, you have Hess on Long Island, Shell. Those folks aren't going to play games with tax. You know, they are more reputable than, you know, some guy that's just whatever. But I brought this chart, and the reason I brought this chart is because it used to just -- think about how unique our industry is. What other business do you know that pre-collects the sales tax? There's nothing. There's no clothing, no shoes, no cars.

LEG. D'AMARO:
I think cigarettes have gone that way.

MR. MASSA:
Well, again, because you're talking about a business that got dirty. And the gasoline and cigarette business is -- you know, what it's about.

LEG. D'AMARO:
So at the end of the day -- I want to continue the discussion about how -- first I wanted to confirm whether or not this cap is benefitting consumers. And you're telling me, yes, it is. You've raised some other issues, as Legislator Schneiderman says, today that are very interesting. If there is a more effective way to merely get what the County is supposed to get by collecting the tax at a different point in the sale, in the distribution chain, that's something that I would want to consider. But can we do that, or would that require State Law changes?

MR. BEYER:
I think you're going to have to look into it. I don't know, because I think -- since we are the county doing the cents per gallon, maybe we could be the only county that starts doing this. And I don't see -- it would help the State tremendously, because they don't need all those auditors; you're just going down to distributors now and to the terminal, it makes it so much easier, everybody is getting the money that they deserve. You know, the County is supposed to get -- you know what it is in black and white, because it's cents per gallon, and it's the gallons and what flows through the terminal. You don't have to worry about any of the other -- you know, on our end, on the retail end, whether there's underreporting. You know, the other part of that was the bootlegging, and that's something that's been going on forever. And that would be something else to challenge and go after. But this is something that we can do -- you know, that should be done pretty quickly.

LEG. D'AMARO:
Just a thought on that. But if you collect the County sales tax at the wholesale level on, let's say, you know, 10,000 gallons come out, you pay the full tax on that, and that price goes now to the station for retail sale, can't the retailer then just raise the price, and then the County would lose the sales tax on the increased portion?

MR. BEYER:
The County is not going to lose, because now what's happening is it's a fair playing field, because you are not going to have underreporting. He had to pay -- myself, when I'm purchasing my gas, the tax is already in there. So every gallon that's coming into my location has already been taxed.

LEG. D'AMARO:
And then the competition of the market will regulate the prices retail is what you are saying.

MR. BEYER:
Exactly.

LEG. D'AMARO:
Okay. I appreciate your answers. Thanks for educating me, I appreciate it.

CHAIRMAN GREGORY:
Thank you. Any other questions? All right. Thank you.

LEG. SCHNEIDERMAN:
One other question here before you go. In terms of the wholesaler, if we were going to place the sales tax just on the wholesale level, where does that transaction actually occur? Does it occur in Suffolk County, or do you go and make a deal with some distributor who might be coming out of New Jersey or somewhere else? Do we always get that sales tax?

MR. BEYER:
If it's coming into Suffolk County, you do. It's what's on the bill --

LEG. SCHNEIDERMAN:
So it's the tanker -- the big truck comes in to your gas station, and that's where it occurs?

MR. BEYER:
My distributor actually --

LEG. SCHNEIDERMAN:
That's the point of sale?

MR. BEYER:
My distributor is out here on Long Island. But what happens is they will either pull from Holtsville, they'll pull from Inwood, but it's coming to me in Suffolk County, so that portion of the tax -- there's a line item for the Suffolk County portion of the tax.

LEG. SCHNEIDERMAN:
So it's not going to Nassau County, it's going to Suffolk, the entirety of the sales tax, even though the distributor is coming out of Holtsville?

MR. BEYER:
It doesn't matter where it's coming from, it's a matter of where the Bill of Lading is made to. And if it's made to some station in Suffolk County, that's why we're saying collect right up. Inwood would be doing the same thing. They would all -- all the terminals would be required to collect that money upfront and distribute it that way. It would be gallons, and it just makes it a flat -- makes it so much more effective for you.

MR. MASSA:
I'm right on Jericho Turnpike in Commack. If you want to just stop by, I'll be more than happy to give you a copy of invoice. I think you would be shocked to see they're very organized. You're talking Gulf Oil, there's no games. Everything is line-itemed and you can see where everything goes. It's pretty clear, pretty enlightening to see how much tax is actually on -- we actually figured it's 55 cents total. So you take the price of 3.50 a gallon, 55 of it, 62 cents on diesel.

LEG. SCHNEIDERMAN:
What's the current price wholesale on gasoline?

MR. MASSA:
It fluctuates just like the stock market does every day.

LEG. SCHNEIDERMAN:
What is it today?

MR. MASSA:
So if you take my 3.59 that I'm selling for today, minus 20. So it costs me 3.39 to get it delivered in.

LEG. D'AMARO:
So that cap is having an affect, because that's over the $3 per gallon obviously.

MR. MASSA:
Yeah. Sure. I'm telling you, I lowered -- of course, like Kevin said, it's a really competitive-type business; everybody quietly watches everybody. So if you lower the price, they don't want you to get the edge. It didn't take -- everybody didn't want to cooperate with this thing, I think they were forced to cooperate with this.

LEG. D'AMARO:
How much more -- let's say we didn't have the cap in place. So you're saying the wholesale price today is around 3.39. How much, because of the cap, is the consumer ultimately saving per gallon would you estimate?

MR. MASSA:
Well, at today's number, you would be even. In other words, based on this sales tax chart, which is the old chart, at 3.39, the total tax that would have been collected under the old formula between the State and the County would be twenty-one four. And that's exactly what it is today, exactly. It's 14.75 plus seven for you fellows.

LEG. D'AMARO:
So even though there's a cap in place, unless the wholesale price begins to climb again, there's not really any benefit.

MR. MASSA:
Correct. If you changed this tomorrow morning, you'd see no additional revenue.

LEG. D'AMARO:
Okay. But the price has been higher, so there has been a benefit, which is reaching the consumer.

MR. MASSA:
Yes.

LEG. D'AMARO:
Okay.

MR. BEYER:
But as the price goes down, the County is actually benefitting, don't forget that.

LEG. D'AMARO:
Who has the authority to change the system, do we know?

MR. BEYER:
That you would have to look into.

LEG. D'AMARO:
Okay. We can check into that.

MR. BEYER:
I don't know if you do or if we have to go to the State, but we would love to work with you on that. That's the one thing we would love to see happen.

LEG. D'AMARO:
Okay. All right.

LEG. SCHNEIDERMAN:
Robert, if you could answer or can't answer, I don't know, you might have to get back to us. There was just a statement made that basically at $3.39 with the cap is no different than without the cap. It just seems to me that there ought to be some savings, about a penny a gallon from the capping at $3 on the wholesale level when the price is 39 cents above that.

MR. LIPP:
I think for now the way I would like to leave it is, number one, I, at this point, strongly disagree. That being said, I would like the opportunity to talk with these gentlemen and to see, you know, what, you know, specifically they're talking about and what I'm talking about. And, you know, maybe we could look at each other's, you know, perspectives and better understand. Obviously, you have some inside-industry knowledge I don't have, because I'm not a motor-fuels guy, but I am, you know, a numbers guy.

LEG. D'AMARO:
What do you disagree with specifically?

MR. LIPP:
Almost everything that they're saying.

LEG. D'AMARO:
Almost everything.

MR. LIPP:
That being said, you know, I don't think it makes sense right now for me to get into specifics.

LEG. D'AMARO:
Fair enough.

MR. LIPP:
I think what makes sense is for me to hash it out with them. And I'm more than willing to say, "You know what? I'm wrong," if that's the case.

LEG. D'AMARO:
Sure. Okay. I appreciate that.

MR. LIPP:
So I would like to be able to exchange information with you guys. I'm sure it will take a little while to get it right, but I'm more than willing to learn.

CHAIRMAN GREGORY:
All right. Thank you, gentlemen.

MR. BEYER:
Thank you.

CHAIRMAN GREGORY:
Next we have Eric Nygard.

MR. NYGARD:
Good morning. I am Eric Nygard, I'm a County employee. I'm here this morning to talk about the County layoffs that have been coming over us. I'm one of the 88 that are on the layoff lift. As you know, there was a list of 710 that were slated for layoffs due to budget issues, and it had been cut down to the 88.

My hope this morning is just to help put a face on those of us in the group that made the final cut. Like I said, I am an employee of the County; I'm a Computer Operator III. I work in the Riverhead County center. I'm a homeowner, taxpayer in the 2nd Legislative District. I'm joined today by members of the IT Department who have come to show support. Some of them are on the list of 88, some of them are not, they are not personally at risk, but they came along this morning, and I appreciate that.

I just really wanted to first of all, express thanks. During the last full Legislative Meeting, Presiding Officer Lindsay pointed out there was a lack of thanks for those jobs that were spared, and I do want to express thanks for the work that's being done. I know that none of you wish to see people lose their jobs and that you're doing what you can do to preserve those jobs. I do appreciate that.

There are people beyond the list of 710 who are not considered to be on the layoff list, and those people have much to be thankful for. I just really am thankful also this morning for the opportunity to talk to you. I don't understand all of the workings of the Legislative Committee and the full Legislature, but I do understand that there's been movement towards appropriating some of the County's rainy-day fund to bring back the 88 into the larger group of the 710 who would be funded for six months. That's really what my thrust is this morning in speaking to you.

Speaking from personal experience, I don't have a situation in my life that is more of a hardship than anybody else who faces layoffs. In fact, I'm sure there are people who are in more serious straights than I am with my family. Yet, we all need to pay our mortgages, we all need to pay our bills and have that income coming into our households.

So I would just ask you to please consider any way that you can to preserve our jobs. For every one of us here this morning, there are others who are still working. I have a coworker back in

Riverhead, she wanted to be here this morning -- she's on the list -- yet, because of health issues and a lot of days off, she was not able to take the day to come and be with us. I know there are others who would like to be here this morning that are unable to. So please consider making this -- making this change to the funding if it's at all possible. Thank you.

CHAIRMAN GREGORY:
Thank you. Yes, Legislator Romaine.

LEG. ROMAINE:
Right now in the process, this is a done deal. What would have to happen, and maybe Counsel or my colleagues can correct me, is the Executive now -- because we are finished with the budgeting process. Once that's done, come 2012, the Legislature has four times a year that we can amend the budget. The first time is going to be, we can put something in in February. The County Executive has 365 days a year that he can amend the budget. He has far greater power than the Legislature in this regard.

There is money in a rainy-day fund, it's called the Tax Stabilization. Debate by some said that that money is to maintain our bond rating. I have contended, as colleagues Legislator Muratore and other colleagues of mine have contended, know that's the Tax Stabilization Fund. You use that to stabilize taxes, not to increase taxes. And you don't think about increasing taxes unless money is used in that account first. There's money left there that would be sufficient. Why there's 88 people that have been laid off as opposed to the 710 that our County Executive, our current County Executive has proposed, the bottom line is the people that have been left employed, for the most part are left employed for six months. There isn't sufficient funding. And that's going to be a challenge that our County Executive-elect is going to have to deal with; how do we find the funding, because there may be, unfortunately, more layoffs to come.

The problem with the County, as our Presiding Officer has said from time to time, we're out of money. We don't have any money to fund the government that we're funding. We are short. Some of us are considering writing a letter to our County Exec- elect to suggest the use of Tax Stabilization Funds to save some of the 88 jobs that are slated. Obviously, the non-Civil Service would be laid off as of December 31. The Civil Servants get a longer period of time, they require a 60-day notice.

So when the new Executive is in on the first business day, January 2nd, the Legislature meets, there could be a proposal to save some of the rest. He has to make that decision. And he also has to weigh against the fact that he's coming into a county that's devoid of revenue, of sufficient revenue, to maintain the County as it has been in the past and decide -- balance that against how he's going to fund the remainder of the jobs after the six months runs out.

Obviously, there's a lot of discussion behind the scenes, and we'll be continuing these discussions, because no one wants to layoff people, including my colleagues Tom Cilmi and my colleague Tom Barraga spoke openly on those issues. But I just want you to know it's not for a lack of trying. There are discussions going on.

CHAIRMAN GREGORY:
Okay. Thank you.

MR. NYGARD:
Thank you very much.

CHAIRMAN GREGORY:
Anne Marie Leonardi.

MS. LEONARDI:
Recently the decision was made by the Legislature to uphold the layoff of 88 members of the County employees and members of AME. My name is Anne Marie Leonardi, and as a 32 year employee of Suffolk County, I need to go on record and voice my displeasure with that decision, distrust for those who made it and sheer disbelief at the statement that we, County employees, haven't come to the table to try and help.

In my 32 years of employment, we have taken not only once, but twice a lag payroll. We, along with the other County unions, have stepped up to save the County $50 million in recurring health insurance costs, 1.5 in the modification to members benefits and the way they are paid through the coordination of benefits for dual-County employee households, of which I was one and continuing to be self-insured paying claims rather than premiums. We increased copays, changed to a preferred generic prescription plan and changed the health plan to a local, not nationwide plan to save money.

We have taken zeroes in raises for the last two years. And some of us haven't even received that because of raids on our unit and union. For those of us at top step, even the step increases have eluded us. We have not received a raise in more than three years. We have worked with a reduced and decimated workforce, and we have continued to make this County run every day with less.

I find it incredibly insulting that members of the Legislature are touting how they are taking a voluntary lag payroll now, something the unions have stepped up and done at least twice in my tenure with the County, yet waited to approve the budget cutting 88 employees until after their election was over. Sure, cutting it from 700 plus to 88 is great, but it's not good enough. To chastise the unions for not coming to the table and for trying to save their members jobs is a disheartening and sad turn of events when we truly have giving more than most.

There are other options, many suggested by AME, yet the claim was made that we haven't tried to help. The bottom line is had the General Fund taxes been raised over the last seven years, we would not be in this situation right now, right here, today. No one wants to be the one to raise taxes, but do you want to be the one to layoff 88 people now and leave another 700 waiting in the wings? I suppose it's easier to deal with 700 plus residents than all of your constituents if you raise taxes. It is your job to do right by the County citizens of which the county employees are members.

If the General Fund taxes had been raised by only small percentages, not only would the brunt of the hit be felt by all taxpaying residents equally, we would not have the deficit hole we have now. It takes one to have a backbone to stand up and do the right thing by all. As union members, we have had to raise our dues. It's the same structure as the General Fund in that we use the money to sustain our existence. We don't want to raise our dues, but there comes a time when one has to say, "It must be done if we are to survive." We, the unions, have come to the table to help time and time again. We have done the right thing.

Ladies and gentlemen, and that includes the County Executive, that time for the County Government is now. You need to raise the General fund taxes and in the immediate, use the Tax Stabilization Fund to keep those 88 plus employees working and in turn, keep your County Government running. Thank you.

APPLAUSE

CHAIRMAN GREGORY:
Anne Marie, thank you for coming out. And I feel and sense your displeasure, disappointment, whatever adjective you want to use. But I assure you that I don't think there's anyone here and the part of the Legislature not present today that enjoys laying off one person. It wasn't an easy decision. You've mentioned you've been here 30 years. I've been here three years -- well it's three years August, and this will be my second lag payroll that I will participate in. I don't have a problem with that. I think that pain -- if we want to use that -- should be shared.

I think it's unfortunate that there's false hopes that are being given out there. People encouraging raiding of the rainy-day fund, but are opposed to raising taxes. You know, Gail Vizzini and our people in Budget, our budget experts are telling us we are not out of this bad economic climate. We may have another two years. So to deplete our reserves in a time when our experts are telling us we may need those monies and more in the years ahead, the State is telling us expect another 40 to $50 million in pension costs on top of the 90 million that we have experienced in the past two years. We have $30 million left in the reserves or 40 million. So how can we deplete a fund when we know at least on one scale increased expenses that are coming?

Certainly I think -- yeah, I can see the argument to deplete it to save jobs, but we have to look at the long-term picture, and the long-term picture is bleak. And to deplete our reserves for short-term satisfaction, if I can use that word, while negating the long-term problems that we know we're going to face is just irresponsible of us to do that. But I assure you that none of us enjoy having one person -- there are two people on the layoff list that I'm friends with, there are five -- personally friends with -- there are five people that I know of now that are constituents of mine. So I think that, you know, has personally affected me. I know what the economy is like. I remember my family was out of work for six months. I know what it's like, it's rough out there. It's tough. And no one wants to put anyone out in that type of climate. I see the Presiding Officer has joined us. You have a comment, sir? Thank you.

MS. LEONARDI:
I just wanted to say my statement was not to suggest to deplete the fund. It was to use what was there as well as increase the taxes and make that felt across the board for all the taxpayers, not just the County employees.

CHAIRMAN GREGORY:
Okay. All right.

P.O. LINDSAY:
We raised taxes to the cap. We can't raise them any more without a supermajority that you're not going to be able to get. You can hold your hands up all you want, Dan, we are not going to be able to get the 14 votes. That's a fact. And to take any more money out of the Reserve Fund, it's beyond our power to do that now. The only one who can do that now is the County Executive.

CHAIRMAN GREGORY:
Just to add on that, you've been at the discussions, just to repeal the gas cap taxes, struggling to get votes for that. You're talking about pennies compared to raising taxes, General Fund taxes. It's just not feasible, particularly at this point, we'd be piercing the cap. That's all. Thank you. Dan Farrell.

MR. FARRELL:
Good morning. My name is Dan Farrell. I'm the AME Treasurer, I'm a Suffolk County employee, I'm an accountant, and I've lived in Suffolk County in West Islip for 40 years. And in regards to the

Tax Stabilization Fund the rainy-day fund, well, if you haven't noticed, it's been pouring for about three years. The rain is overflowing here.

And what's the big mystery here about the budget? I don't understand it. As an accountant, it's a simple equation; revenues minus expenses equals either a surplus or a deficit. Okay. I have my last tax bills here for the last two years. Okay. My taxes go up. Okay. The only thing that hasn't gone up is the $88 on my General Fund tax here, which pays for our services and programs and our employees jobs. That hasn't gone up. Everything else on my bill has gone up, because every other part of my tax bill has gone up except the General Fund portion. And as elected fiduciaries, this in my opinion, was done on purpose.

While the current County Executive's legacy may be that he never raised taxes, this is simply not true. But this body went right along with it anyway. My question is why. To make yourselves look good and get reelected? It's a good sound bite, can't raise taxes. But you know what that means in my accountant world? That means there's no money to fund programs, services and jobs. So you know what that means? Not only the young people will be leaving Long Island, but the people you layoff here will be leaving Long Island as well. And that's not going to help your economy either.

So did you do the right thing? So when you lay your head on the pillow and ask yourselves this questions: What jobs, services or programs do I want to get rid of because you didn't have the courage to raise the General Fund tax over the last eight years. Sounds good, you didn't raise taxes. It's not true, but you didn't raise the tax on the General Fund. Okay. And if you would have raised it a measly 3% over the last eight years, okay, that would have costed (sic) me $18 a year as opposed to 3% on my $6000 school tax, which is $180 a year. And that's what happens every time school taxes come up. That's ten times more than what they would have been for the General Fund tax. But yet that seems to pass no problem. Nobody's really too concerned with the school tax. Okay.

And your other concept here of land preservation, while I agree in the concept, in this day and age and these times where you don't have money, how can you honestly spend $18 million and preserve land in Cold Spring Harbor when all you need is $3.5 million to preserve our jobs? I find that unfathomable. I've heard the term "unsustainable quo." Well, that's only if you let it, and you did, because you didn't raise the General Fund tax over the last year. And if you would have raised it, you could have sustained all the jobs and programs.

If you think this 2012 Budget is bad, don't wait for the 2013 budget process to come around to start doing something, because you know what? You are out of all your one shots, and you're going to be facing over a $200 million deficit for the 2012 Budget. Okay. So unless you correct the past errors of your ways and raise the General Fund tax back to where it should be and stop asking all the unions for concessions -- we did not cause the problems, you did by not raising taxes. And you know what? Back in 1991, Pat Halpin had the courage to do it. He raised the taxes. But you know what happened to him? He didn't get reelected, but he did the right thing financially. That's what he did.

And, you know, you here enjoy COLA raises. Well, if my membership could get COLA raises, we wouldn't have to collective bargain, we'd get automatic raises. Instead we're taking zeros and giving you back money in furloughs and lag payroll. So I'm going to leave you with two things: Raise the General Fund, and I'd also like my damn street paved. I've been living there for 40 years, it hasn't been paved since 1978. And you know why that was done? It was because I live in the Southwest Sewer District, and they put sewers in. In putting the sewers in, they had to pave the road.

So you know what? All this government downsizing, it's downsizing, downsizing, downsizing, downsizing. So you know what that means to me? I don't get any services and programs. So I'm going to leave you with this question: Why should I pay the government my taxes when all they do is cut my services and programs. Thank you very much.

APPLAUSE

CHAIRMAN GREGORY:
Richard Meyer.

MR. MEYER:
I thought I'd stand here. It might be a little warm in that seat right now. I'm here this morning speaking on behalf of the AME President Cheryl Felice. Certainly, we know the difficulties you face. We do appreciate the positions that were saved. You have 88 left. We know you're only saving them for six months. But it's almost like running the New York City Marathon; you have gone 25 and a half miles, you have a little over a half mile to go to pick up these 88 seats.

Some have suggested in discussions that maybe some of the Tax Stabilization money can be used. Our understanding is there's about $50 million dollars there. To preserve these 88 positions would take about three and a half million dollars or about 7% of that fund. That's not a lot. It doesn't save them for a long time, we understand that. But it's a little bit like the truck driving towards the cliff; you can turn the wheel before you get to the cliff and you know, there's another cliff down the road, but wouldn't you do that to buy yourself more time to work on the issue?

We urge you to continue those discussions. We understand the mechanics of the law, and we appreciate that. But we know that the new County Executive will want a strong solid relationship with this body. We believe this body has the moral ability to influence that County Executive and that relationship by having him introduce on January 2nd a resolution to use $3.5 million to save those 88 people for six months longer. Thank you.

CHAIRMAN GREGORY:
Thank you.

APPLAUSE

CHAIRMAN GREGORY:
That is all the cards that I have. Is there anyone else that would like to speak? Please come, forward state your name.

MS. KERRIGAN:
Good morning, Legislators. I thank each and every one of you for all the hard work you've done to save hundreds of jobs. I'm here a lot, I see what hard work you do. The hundreds of jobs, those people are very, very fortunate, and I hope they continue to be so. The 88 people that are being laid off, you know, they may be happy too that other jobs have been saved -- I'm sure they are, they are their neighbors -- but those 88 people and their families are really going to suffer. There's no way that they can get jobs in this economy that are going to support their homes, their household.

They're Suffolk County residents. They put that money in the Tax Stabilization Fund just as all of us did. I understand the mechanics also. Now you can't apparently do anything. It's unfortunate that it's come to this position. I know it's hard on everybody, but the 88 people that are losing their jobs, they may end up costing us money and costing -- families don't stay together. It becomes very disruptive when the financial problems are real. And it's just really sad. That's all I really want to say. I know you guys will work really hard, you always do. We've got to come up with something. Thank you.

APPLAUSE

CHAIRMAN GREGORY:
Okay. We are going to go to our presentations. We have Rich Tortora.
Good morning. I think you may have to -- is the green light on? You may have to hold it.

MR. TORTORA:
Oh, I do. Thank you. Good morning. I'm Richard Tortora, President of Capital Markets Advisors. My firm serves as financial advisor to the County and to STASC, the Tobacco Securitization Corporation. I'm here this morning to talk to you about a proposed financing to securitize the balance of the tobacco settlement receipts that the County is presently receiving under master settlement agreement.

Some of you will certainly recall that in 2008, the County issued tobacco bonds. They securitized a portion of the revenue stream that they had been receiving. That issue was a $233 million financing. It securitized 36% of the revenues being received through 2012, and then 25% of the revenues being received thereafter. The new transaction proposes to securitize the 25% that you had not securitized in the original transaction. If indeed you were to do that, we anticipate that you would be issuing bonds in approximately in the amount of perhaps 37, $38 million.

The new transaction the 2011 or the 2012 transaction as it's likely to be, would be different from the original transaction in that the original transaction employed what's called a turbo structure, which means the amortization of the tobacco bonds was affected by the amount of tobacco receipts that you received every year. To the extent that you received more receipts than were necessary to pay the scheduled debt service, any excess monies would be used to accelerate the repayment of the tobacco bonds.

This new structure would be a much more traditional structure. It looks very much like a revenue bond issue. What that means is there would be a defined revenue stream, that revenue stream being the 25% of the unsecuritized tobacco receipts. And that revenue stream would represent to a bond holder who purchased these securities, coverage of the one and a half and four percent the time that's need to pay the debt service on the bonds that are being issued.

So very simply, this would be a revenue bond issue. To the extent monies came is in excess of what was needed to pay off the bonds, rather than it be used to accelerate the repayment as was done in the 2008 deal, those monies would go to the County. It's called a residual structure. So those excess monies would go to the County. This structure was the structure that was originally used -- when tobacco securitization began in the late 1990's, the industry moved away from this residual structure, you know, in the first of this century. And the last couple of deals that have been done have used this residual structure, which is being well received by investors.

We anticipate that this issue will receive ideally an A minus rating from Standard and Poor's Corporation. We expect that our cost of capital on this issue should be just around 6%, hopefully slightly less than 6%. As compared to the cost of capital on the 2008 issue, which was about 6.67%. So it's considerably better. If indeed the Legislature gives us the approval -- gives the approval to sell the remaining proceeds to STASC, we anticipate this issue would probably price perhaps later in December or early January and close shortly thereafter. I'd be happy to answer any questions you may have.

CHAIRMAN GREGORY:
Quick question. With the residual structure that you mentioned, do you anticipate excess revenues that would go to the County and what --

MR. TORTORA:
We do. Presently the County is receiving about 5.2 million. The remaining 25% will be about 5.2 million. We think a little over two million of that will be available with the residual structure after debt service.

CHAIRMAN GREGORY:
Okay. And with the new securitization, there's going to be 20 million next year, an additional ten million in 2013. Is that still the same?

MR. TORTORA:
That's correct, and I'm glad you brought that up. In the original transaction, we used the proceeds from the securitization to defease general obligation bonds of the county in the years 2009 through 2013. And that's a good use of the proceeds. The rating agencies look to see how jurisdictions use their tobacco proceeds, and defeasing debt is considered a favorable use of the proceeds.

In this issue similarly, our firm has identified outstanding County general obligation bonds that have debt service in 2012 and 2013 that these bonds will be used to -- the proceeds from this issue will be used to defease. We expect 20 million thereabouts in 2012. And then whatever the remaining balance is, if it's ten or twelve or 13 million, that will be defeased in 2013.

CHAIRMAN GREGORY:
Okay. Anyone else, any questions?

LEG. SCHNEIDERMAN:
Just for Robert, when we did our budget calculate using tobacco securitization, are those numbers similar to 20 million in '12, and another two in '13?

MR. LIPP:
Correct. The 13 piece would not be part of our deliberations since that's the year after, but we have implicitly the 20 million in the amending Operating Budget for '12.

LEG. SCHNEIDERMAN:
But we didn't put in anything -- this $2 million residual, Rich would be that be 2012 we might see the $2 million residual?

MR. TORTORA:
This issue with securitized revenue starting in '13 -- that's right, starting in '13. We would unaffected by -- the revenue stream that you currently seeing would be unaffected in 2012. This impact would be in 2013.

LEG. SCHNEIDERMAN:
So we might be able to put an additional two million into our 2013 budget based on that residual --

MR. TORTORA:
I don't think you look at it like that. The impact of this financing in 2013 will be the defeasement of the debt -- you know, the proceeds that we're using in defeasement of the debt, the revenue

streams won't be affected in 2012. They won't be impacted until 2013.

LEG. SCHNEIDERMAN:
But that's how we put it into the budget though, right, just in terms of the defeasing of those bonds and what the debt service costs savings, that's --

MR. LIPP:
We saved in terms of debt service in the budget implicitly, $20 million for '12, period. That's the only thing, as Rich is saying -- and I can say this without my glasses -- as Rich is saying, that the other issues relate to 2013, which is beyond the budget that we just adopted.

LEG. SCHNEIDERMAN:
Rich, you also seem to say that this offering would -- that the time seems very favorable for it in terms of the return that the County is getting. You know, I thought the last time we did we were told that that was the perfect timing, and, you know, we were getting about as good as we were going to get. And now you're saying the timing is also very good.

MR. TORTORA:
Interestingly enough, your issue, which closed in August of 2008, was the last tobacco securitization to be done for years. If you recall, in the fall, a month or so after, that's when the financial markets collapsed. So if we had not closed your issue in August of '08 and looked to close it, say, in September in '08, we might not have had a deal at all. So it was deemed very fortuitous that we went into the market and we got the deal done then. Had we tried to do two or three months later, we might not have had a deal at all. If we did it six, 12, 18 months later, the cost of capital might have been significantly higher. Rather than 6.72, maybe it would have been, I don't know, 8%, dramatically higher. Your proceeds would have been dramatically less. So it was an ideal time.

So now, with the passage of time -- so now, it's December of 2011, the structure has changed, investigators are much more comfortable with this residual structure, because the turbo structure counted on excess revenues to accelerate the repayment of the bonds. Tobacco consumption has declined significantly more quickly than was anticipated as recently as 2008. So as a result of that turbo structure, the bonds aren't being retired as quickly as had been anticipated.

So to answer your question, the market liked this residual structure, they like to look at this deal as a traditional revenue deal rather than a turbo deal. The coverage ratios they like. The rating agencies have made the rating parameters more difficult, yet, we think it can receive an A minus rating. So bottom line to you, the real benefit is rather than borrowing at a 6.72 as was the case in August of '08, now we think you'll borrow maybe just at or under 6%. So it's a good time in terms of cost of capital.

CHAIRMAN GREGORY:
Okay. Thank you, Rich. That's it. No more questions.

MR. TORTORA:
Very good. Thank you.

CHAIRMAN GREGORY:
Okay. We're going to get to the agenda. Let me first ask, does the administration have any comments on anything? No? 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.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED (VOTE: 6-0-0-0)**

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.) WITHDRAWN

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.)

I'm going to make a motion to table subject to call.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED SUBJECT TO CALL (VOTE: 6-0)**

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. This was all handled in the budget. **TABLED SUBJECT TO CALL (VOTE: 6-0)**

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

Same motion, same second, same vote. **TABLED SUBJECT TO CALL (VOTE: 6-0)**

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

Same motion, same second, same vote. **TABLED SUBJECT TO CALL (VOTE: 6-0)**

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)

LEG. SCHNEIDERMAN:
I'll table.

CHAIRMAN GREGORY:
Legislator Schneiderman offers a motion to table, Legislator D'Amaro will second. All in favor? Opposed? Abstentions? **TABLED (VOTE: 6-0)**

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.)

I make a -- motion to approve by the Presiding Officer, Legislator D'Amaro will second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 6-0)**

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.)

LEG. ROMAINE:
Motion.

P.O. LINDSAY:
Motion.

LEG. GREGORY:
I heard two people. Presiding Officer, you made a motion to?

P.O. LINDSAY:
Motion to approve.

CHAIRMAN GREGORY:
To approve.

LEG. ROMAINE:
Motion to table.

LEG. GREGORY:
Motion to table by Legislator Romaine. I will second the Presiding Officer's motion.

LEG. MURATORE:
Second to table.

LEG. GREGORY:
Legislator Muratore will second the tabling motion. You had a question.

LEG. D'AMARO:
On the motion. Just very quickly, we heard some testimony today from the Long Island Gasoline Retailer's Association, specifically from their President, telling us that the benefit of the cap on retail sales of gasoline is reaching the consumer. And I know there's contrary opinions out there, and I know that even the Presiding Officer's Office has done some studies of this as well and doesn't agree. And I know that also our Budget Review Office is going to open a dialog with the representatives from the retailers association to try to get to the bottom of that question, and I appreciate that. But until we have an answer, I think it would be important when we get the answer for everyone to hear precisely what those opinions are. So I'm going to support the motion

to approve this out of committee and get to the full floor of the Legislature so we can continue the discussion there.

CHAIRMAN GREGORY:
Legislator Schneiderman.

LEG. SCHNEIDERMAN:
We also, in that testimony, heard that at today's gasoline prices there is no savings, no savings to pass on, no savings to the consumer. I'm going to support discharging this and repealing this tax, because quite frankly, I think if there is any money, the County needs it to try to keep the County functioning. But this really goes to BRO then, when we repeal this and now we create a fund that we can use as an offset next year to fill some of the holes, what number do we plug in? Robert, based on the testimony today, it sounds like the number is zero. So I need more information.

MR. LIPP:
Well, like I stated before, I disagree with what they said. That being said, as Legislator D'Amaro is saying, I went out in the lobby with them, and we had a very brief conversation. I didn't want to get into issues at the time, because, you know, I had to come back here. But we exchanged business cards, and I will contact them to see what the perspective is.

I do know that they were adding something in terms of their interest that didn't relate directly to this resolution; that is they wanted it to be collected at the point of distribution. That's not part of the this. That's not how it's collected now. That's a different issue. In our conversation out in the hall, I said, "Well, hold on. I'm not saying it's a bad idea or not, but that's beyond this resolution." So it made the conversation a little bit confusing because they were adding something that they thought was important to them.

That being said, all of the statistical analysis I've done shows what the impacts -- that there's positive correlation between price and revenue we receive. We've observed in other periods of time when prices are spiked that we have gotten an increase, not a windfall, but an increase in the motor fuels portion of the tax. People tend to not buy certain other items too.

LEG. SCHNEIDERMAN:
The issue is not who's pocketing the money, whether it's the retailer of the consumer getting it, it's if we're going to get it now. I just need to know how much it's going to be that we're going to see -- we're going to realize more money by lifting this cap. I think it's important to know if we're going to talk even maybe about trying to spare some jobs or make that -- - you know.

MR. LIPP:
I think what the Legislature needs to understand, and I think that Budget Review has been consistent on this, is that energy prices are volatile. They definitely jump up and down a lot, number one. Number two, therefore, you will see periods that are high and periods that are low, and those are very hard to protect. That being said, coming into the Operating Budget amendments, proved have averaged, as witnessed by the data that Legislator Lindsay collected other the past previous six months through October I believe it was, average almost $4 a gallon. Since then, in particular in October it went down to 3.75 and has gone below that now. In November, I'm not sure exactly what the prices may be, 3.60, but I'm not sure. That's at the pump. Yeah, they're going to go up and down. We think that the risks are greater that they will go up. Do we know what the prices will be? No. But we do have a fiscal impact, and we have spoken about in the past what the gain is likely to be at different price levels.

What you also need to know is it's easy to make projections about expenditures in general. It is much harder to figure out exactly what's going on with the revenue. That's the nature of budgeting. That's a fact. Okay. So if you're looking to sink your teeth into a hard solid number for revenue, it would be fool's gold to tell you this is the number period, end of conversation.

CHAIRMAN SCHNEIDERMAN:
I'm not asking that. But a budget is made up of assumptions and projections, we all know that. And we turn to you to give us your best guess at some of these things. At one point this cap -- you know, lifting the cap would produce $10 million or 12 million, I forget. It was -- we thought it might be enough to offset the out-of-County tuition. All right. I'm throwing that out at this point. I'm looking for a new projection so that we can plug it into our budget model if we list this cap. And I understand you don't have it today, but if we're going to be using as an offset into next year -- we just need to know what that number is based on, you know, your best projection with all the correct math involved.

And the other thing, Robert, is I didn't follow -- when he said -- the gentleman who spoke before -- seven cents on a gallon of gas based on that three dollar wholesale cap, what price are they charging? Because if they're charging four percentage point a dollar, I got 12 cents, not seven cents. Where is that seven cents coming from? Did you follow that. Am I wrong to say it should be 12 cents?

MR. LIPP:
In my opinion, you are 100% correct. I don't see any place where that seven cents is. I told them out in the hall, "Look, I don't want to get into specific now, but I have my own chart to show what the different taxes are at the different levels. I would like to show that to you and you show me your chart."

LEG. SCHNEIDERMAN:
So we may be being shorted five cents a gallon, which is significant, that's millions of dollars.

MR. LIPP:
I just think that they may have provided information that wasn't specifically related to this. I really don't know what they were talking about.

LEG. SCHNEIDERMAN:
Okay. Let's make sure everyone is calculating the taxes correctly.

MR. LIPP:
I hate to agree, disagree without sitting down with them.

LEG. SCHNEIDERMAN:
Okay. But that did send a red flag. I'm glad it did for you too.

MR. LIPP:
I don't get it. I don't see where the seven cents is anywhere.

LEG. D'AMARO:
DuWayne, if I could. Rob, just so it's clear, if you could keep it simple when you come back to us. You know, we just want to know how many, you know, best estimate we're talking about here with the cap being lifted, how much revenue realized to the County. And the second question in my mind is whether or not that amount or savings is reaching the consumer. That's what I want to know.

MR. LIPP:
I'd like to have a private conversation with you about that, because I don't want go -- in terms of the not keeping it simple part.

P.O. LINDSAY:
Rob, I request that you have that meeting with the retailers very quickly. I request of my colleagues that this bill get to the full floor, because the revenue is critical in next year's budgeting, whether it's used to save jobs immediately or in July. I hope all you folks are listening. You know, it's a wonderful thing to say, "Don't lay anybody off." We need money. We don't have money to pay you. Don't you understand? We need the money. So we need that meeting very soon. I'd like to be included in that meeting.

Simultaneously, the industry website that reports the monthly -- I've asked for another study going back a year further back to give us more data on the pricing; whether it has been affected or not been affected by the whole thing. And I should have that today, and that should be interesting in these discussions too, because, again, all the data that I have in my possession shows that this -- this cost savings isn't being passed on to the consumer at all. And who's fault it is? I have no idea. But I think that's the discussion. And what we need from you is a range of what kind of revenue. We're not looking for an exact number. You know, whether it be -- whatever that range is. That's what we need to see, all right?

LEG. SCHNEIDERMAN:
If I may. I think it's important that we get the data that the Presiding Officer is looking for. Based on the testimony, Robert, today, the retailers are saying there's no better passed along until after the wholesale price crosses the $3.39 level. And then after that -- because if we're going to look for the savings between Nassau and Suffolk and see what the difference is -- let's say the wholesale price was $3.50. The number we would be looking for would be less than a penny per gallon. So let's say Nassau is at $3.80 and we are at $3.80, we actually need the next digit. It's three dollars and eight point whatever, point seven verses point one. That's the range -- you know, if have to try and find this savings, you're looking in the tenth-of-a-cent range. So that's the only place to find. It a very small amount per gallon. That's just the reality of it. If it's passed on, you'll see it in the tenth-of-a-penny range, not in the penny range. It won't be $3.81 versus $3.80. They will both be $3.81 cents, and then something in that tenth-of-a-penny range. That's what you need to look at to see if it's actually being passed along.

CHAIRMAN GREGORY:
Legislator Romaine.

LEG. ROMAINE:
Yes. This is a tax that we took a look at, made a decision that we were going to cap the wholesale price at $3. My understanding, State of New York in 2006, capped their sales tax on gasoline at $2. The State has had some very, very difficult times, yet, they have not repealed their cap. We're looking to repeal their cap.

My problem with this is I'd like to see this tied specifically to a restoration of jobs. It's a difficult thing to tell the people of Suffolk County, "You know, we know all of you in this County --" this County has the most registered vehicles of any county in the State of New York. More people drive more miles than most counties in the State of New York. And sales tax on gas impacts them.

We rolled that back. We capped that at $3 for the wholesale price. The State did it at $2 many years ago, and the State has yet to undo their repeal. Before we tax our citizens, I want to know that there's a concrete benefit from it. I'd like to see -- I think it would go much better for this resolution -- I mean, we are in the minority, we can be outvoted, we're going to lose the vote today. But I'd like to see it tied to a restoration of some of these jobs. Obviously, key to that is getting a report of the final benefit of the repeal; how much is the County going to get. Still, that's an unanswered question.

If I get some of that data, and if there can be discussions between now and next Tuesday, which is a week, that there would be some correlation that this money that we would then benefit from would then go to restoration of jobs, that would go a lot better.

So right now, until I see that, I'm going to be in favor of tabling this. I know we don't have the votes, we will lose, but hopefully, I'm sending signals out that between now and next Tuesday, there will be some discussions; one, about the financial impact; and two, the discussion if there's a financial impact to be made to the County's benefit that that money could be used to restore some of these jobs, because I'm looking at some of them, like the police aides, those jobs aren't going to go away. They will just be done by police officers at twice the cost. So I'm looking at some of these things and saying, "I want to see some correlation between what this money is going to be used for. Thank you.

CHAIRMAN GREGORY:
Okay. All right. We have a motion -- we have two motions. Motion to table goes first. You're smiling. Did you withdraw your motion?

LEG. ROMAINE:
No.

CHAIRMAN GREGORY:
Okay. Motion to table, all in favor? Opposed? Abstentions? Two-four. And then there was a motion to approve, all in favor? Opposed? Abstentions? **APPROVED (VOTE: 4-2-0-0 - Opposed: Legislator Romaine and Legislator Muratore)**

So the world of repealing the tax rests on your shoulders, Robert. Get information back to us.

MR. LIPP:
I'll be at the gym tomorrow pumping -- doing some shoulder exercises.

CHAIRMAN GREGORY:
Introductory Resolutions.

IR 1926 - To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer By: County Legislature No. 362-2010. (Co. Exec.)

Motion to approve and place on the Consent Calendar, seconded by Legislator Schneiderman. All in favor? Opposed? Abstentions? **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 6-0)**

IR 1927 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 871-2011). (Co. Exec.)

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 6-0)**

IR 1982 - To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer By: County Legislature No. 363-2010. (Co. Exec)

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 6-0)**

IR 1983 - Adopting Local Law No. -2011, A Charter Law to increase public accountability in budget process. (Cilmi)

This has to be tabled for a public hearing. Motion by Legislator Schneiderman, seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED for PUBLIC HEARING (VOTE: 6-0)**

IR 1997 - Adopting Local Law No. -2011, A Charter Law to ban community college chargebacks to the Towns. (Romaine)

This has to be -- this is a public hearing. Motion to table by Legislator Romaine, I will second it. All in favor? Opposed? Abstentions? **TABLED for PUBLIC HEARING (VOTE: 6-0)**

IR 1999 - Authorizing transfer of surplus County monitors and laptops to RSVP. (Kennedy)

Motion to approve by Legislator Schneiderman, I will second it. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 6-0)**

IR 2004 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 872-2011). (Co. Exec.)

I make a motion to approve and place on the Consent Calendar, seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 6-0)**

IR 2030 - Adopting Local Law No. -2011, A Charter Law to improve the process for adopting the county's Operating Budget. (Romaine)

Has to be tabled for a public hearing. I take a motion from Legislator Romaine to table, I will second it. All those in favor? Opposed? Abstentions? **TABLED for PUBLIC HEARING (VOTE: 6-0)**

That's our agenda. We stand adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 11:37 A.M.*)