

**HEALTH COMMITTEE**  
**OF THE**  
**SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Health 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 Thursday, March 13, 2014 at 2:00 p.m.

**MEMBERS PRESENT:**

Legislator William Spencer - Chairman  
Legislator Kate Browning - Vice-Chair  
Legislator Robert Calarco  
Legislator Monica Martinez  
Legislator Rob Trotta

**ALSO IN ATTENDANCE:**

Presiding Officer DuWayne Gregory - District No. 15  
Deputy Presiding Officer Jay Schneiderman - District No. 2  
George Nolan - Counsel to the Legislature  
Sarah Simpson - Assistant Counsel to the Legislature  
Renee Ortiz - Chief Deputy Clerk/Suffolk County Legislature  
Craig Freas - Budget Review Office  
Lora Gellerstein - Aide to Legislator Spencer  
Bill Shilling - Aide to Legislator Calarco  
Debbie Harris - Aide to Legislator Stern  
Greg Moran - Aide to Legislator Trotta  
Michael Pitcher - Aide to Presiding Officer Gregory  
Lisa Pinkard - Aide to Legislator Martinez  
Josh Slaughter - Aide to Legislator Browning  
Tom Vaughn - County Executive's Office  
Amy Keyes - County Executive's Office  
Phil Berdolt - Deputy Comm./Suffolk County Department of Public Works  
Dominic Ninivaggi - Vector Control  
Lori Benincasa - SC Dept of Health Services/Health Education Director  
Michael Kaufman - County on Environmental Quality  
Amy Juchatz - Suffolk County Department of Health Services  
Grace Kelly McGoveran - Suffolk County Department of Health Services  
Frank Castelli - Suffolk County Economic Development & Planning  
Kevin McEveddy - AME/Legislative Liaison  
Pat Bishop-Kelly - Suffolk County Board of Health  
Annie McClelland - Citizens Campaign for the Environment  
Kevin McAllister - Peconic Baykeeper  
Jack W. Rugen - U.F.O.L.I  
Kevin Beyer - Long Island Gasoline Retailers

Tony Carlo - CT Western LIS Association  
Michael Kalamán - Western L.I.S. Lobstermen's Association  
Roger Frate - Western Long Island Sound Lobstermen's Association  
Tony Carlo - Western Long Island Sound Lobstermen's Association  
Michael Seilbak - American Lung Association  
Philip Castaldo - Suffolk Resident  
Dorothy Castaldo - Suffolk Resident  
Joan Anderson - Suffolk Resident  
Mary J. Finnin - Suffolk Resident  
All Other Interested Parties

**MINUTES TAKEN BY:**

Alison Mahoney - Court Stenographer

**MINUTES TRANSCRIBED BY:**

Kim Castiglione - Legislative Secretary



*(\*The meeting was called to order at 3:21 PM\*)*

*(The following was transcribed by Kim Castiglione, Legislative Secretary)*

**CHAIRMAN SPENCER:**

Thank you. I apologize for the delay. There's a lot of things that are going on that we had to deal with, but we're now ready to begin the Health Committee. I'm going to ask the Legislators who are part of the Health Committee if you're not to report to the horseshoe at this time. And we're going to stand and have a salute to the flag to be led by Legislator Trotta.

***Salutation***

If we could remain standing for a moment of silence for those who are defending our country around the world. Also for the victims of the gas explosion in Manhattan and families who were aboard the missing flight.

***Moment of Silence Observed***

Thank you. Welcome to the Health Committee and we have a late start and we have a significant agenda. Our presentation today, we do have kind of a pseudo presentation with the lobstermen from Connecticut who are here, but first we have to do our public portion. We have several cards. First one is Mary Finnin, and Mary, if you'd come to the podium. Because of, again, the lateness of the hour and the number of cards that we have and the length of the agenda, we're going to be very strict on the three minute time limit, so thank you. Mary, welcome.

**MS. FINNIN:**

Thank you. My name is Mary Finnin I'm -- I'm a retired Public Health Nurse, but I also serve on several County health center advisory boards. I'm here today to express my concern over the issue of the ambiguity that's going on with regard to the future of our health centers. There are no contracts at this present time, yet the County has hired someone to come in and do contracts with the County clinics, to take them over, namely with HRH. I don't know if this person is representing the County or HRH, but there has not been any direction by the County to the County health center vendors or hospitals that have done work with us for 40 years. Forty years of service in this County and they're literally being bypassed in the real negotiations and discussion about who's going to be the employer, what's going to happen to their employees, and this is both public and private. I've talked to both people from -- and employees and administrators from both sectors. The patients are asking what's going to happen to me? Health First currently is the only insurance that our County clinics can use and it's not one of the insurances that is on the open exchange, so they're saying who's going to be my provider? What's going to happen to me?

In addition, because there are no current contracts with the County, they're going on some month to month basis based on some allocation in the County budget. You can't hire staff when you don't know if they're going to have a job in 90-days, and so we're down in some of the clinics, excuse me, we're down in some of the visits because we've lost staff and they can't replace it because they can't give anyone a guarantee. I think that the one thing that is going to help some of the patients at least, is Legislator Calarco's -- I do appreciate that you finally got the bill passed to have a flexible fee schedule and that will be good for our patients and that will help them. But I think that you have to address the fact that I don't know what's going on behind closed doors, but upfront the people that are involved with providing care, the people that have contracted with us in good faith for 40 years, are not in the -- at the table making the decisions as to the future and what's going to happen to our patients. The bidding process was never appropriate because it was set up so that there would only be a single bidder, so I think that you have to address the concerns of our patients, our employees and our very loyal hospital contractors. Thank you.

**CHAIRMAN SPENCER:**

Mary, thank you. Just as -- and I agree with you and we have had employees that have reached out

who want to know, be informed as to what the process is. And one of the things that we want to do here is to be in touch with the Administration. My understanding in one of the items that you mentioned, wasn't that tabled at the Waiver Committee? Is that correct? The position? I'm not sure.

**MR. FREAS:**

We don't have anything.

**CHAIRMAN SPENCER:**

All right. But the process should be open, the employees should be given updates, they should know where they stand and we appreciate, again, you being here. So our next card we have is Kevin --

**MR. FREAS:**

Mr. Chairman?

**CHAIRMAN SPENCER:**

Yes.

**MR. FREAS:**

Mrs. Finnin was referring to the consultant that was going to be hired on the waiver.

**CHAIRMAN SPENCER:**

Yes.

**MR. FREAS:**

I'm sure Mr. Vaughn is frantically trying to communicate with his folks over across the street, but I do believe that you were correct in that that's not moving right now, the consultant is not -- we were not going to retain the consultant. That was from another source that I had earlier in the week.

**MS. FINNIN:**

Oh, he hasn't been hired?

**CHAIRMAN SPENCER:**

No. At least we got a thumb's up. Mary, I'm glad that gives you a little bit of happiness. Thank you. Kevin McAllister, addressing --

**D.P.O. SCHNEIDERMAN:**

You want to say something?

**MR. McALLISTER:**

Mr. Chair --

**CHAIRMAN SPENCER:**

Are you going to be with part of the presentation, Kevin?

**MR. McALLISTER:**

Yes.

**CHAIRMAN SPENCER:**

Okay. So thank you, Kevin. It's nice to see you. Pat Bishop-Kelly. Hi, Pat. On deck is Jack Rugen.

**MS. BISHOP-KELLY:**

Good afternoon. You know I'm speaking about Resolution 1039. Over the past weeks you've heard from many, all addressing the same critical issue before you. I ask simply that you hold your opinions and reflect on a robust tobacco control program that Suffolk had a few short years ago, but

which no longer can provide the educational and public information safety net in some comments about educational programs. The master settlement agreement repaid the states and municipalities for those outrageous amounts of money spent to treat people who became sick from smoking. The emphasis of that agreement was clear and should have served as a wake up call to every municipality in this country; take this money as repayment and use it wisely so you never again have to go to the taxpayers to fund health care for smokers.

The CDC and other state health entities, including New York, developed plans for what was a comprehensive tobacco control program, what it would look like and what it should cost. None would cost more than 20% of the total dollars coming in. In other words, they were saying establish programs that have been proven to be effective in reducing and preventing tobacco caused diseases. Programs such as school health education for kids, cessation for those who want to quit, counter marketing and public information and education for the public at large and effective enforcement. Dedicate that money so in the future we will have a consistent stream of money totally provided by big tobacco, not the taxpayers. Comprehensive meant that each component would coordinate its activities with the others and provide an ongoing acceleration of education and public information with widespread reach long after the lessons of the classroom were over.

In 2000, then County Executive Gaffney and this Legislature decreed that 20% of the funding would be dedicated to a new comprehensive tobacco control program. The program was up and running with great success. In one instance our public information campaign was so successful that we had to stop admitting people to the cessation program as we were oversubscribed. We heard from children about our ads and commercials and we had a popular interactive website for kids that provided realtime answers from a doctor to kids questions about tobacco and their health. College programs were started and Dowling College became the first college with NCAA teams to go totally tobacco free. A program for emergency room nurses was started and a study was conducted by Stony Brook among Suffolk residents. Vibrant programs were begun, but when the settlement money was securitized, funding was slashed, programs were stopped, staff was excessed or not replaced and resources were lost.

Some say education is the appropriate response to the problem as well as reminding parents of their obligation to serve as role models. You are right, but only in part. We no longer have the robust counter marketing and public education programs reinforcing the lessons outside the classroom. At this point, we need every weapon in our arsenal to protect kids, especially now with the onslaught of e-cigarettes. Tobacco marketing tops out at 24 plus million every day. We have few resources to fight back.

I ask you to please consider what we need to do to protect our kids. Securitization has hobbled the integrity of the comprehensive program. Since we no longer have support programs outside the classroom, the next best thing is a regulation that denies these kids the access to these deadly products. So far I have not heard one single good argument as to why we should not do this. A pack and a half a day in lost revenue will not compromise business, but it can and it will help to save a child's life.

**CHAIRMAN SPENCER:**

You had two seconds left. Congratulations. Thank you.

*(\*Laughter\*)*

Thank you, Pat. We appreciate your testimony. Thank you very much. Next, Jack Rugen.

**MR. RUGEN:**

This is the third time I stand before you on this subject. So what have we learned? Cigarettes are very bad for your health and can cause cancer after many years of smoking. Suffolk's youth begins smoking in high school. The youthful brain is susceptible to peer pressure and unable to make intelligent risk taking decisions. We share the goal of preventing minors from smoking. We, as law

abiding tobacco retailers, are dedicated to comply with County, State and Federal laws. Cigarette age compliance rates are at an all time high in the County at about 87%. 7-Eleven's own mystery program yields a compliance rate of 97%. So if kids are getting cigarettes, they're not getting them from our stores.

This proposal will hurt our business, which already has been negatively impacted by the sluggish economy and raises in Federal and excise taxes. Nineteen and 20-year-olds will flock to Poospatuck and Shinnecock Native American shops as evidenced by the high school student's own testimony right here in this auditorium several weeks ago. As sovereign nations, the Native American tax free outlets are not bound by Federal, State or County laws. Law abiding tobacco retailers have to charge about six dollars a pack more than these tax free outlets.

A 2011 university study of littered cigarette packs in New York City showed just 39% bore the proper city tax stamp. Nearly three-fourths were from Virginia. Black market activity will increase in the County. According to the CDC, most teen smokers get cigarettes from adult relatives and friends, not from retail stores. The calculation by the Budget Office does not include prepaid sales tax, State and Federal excise taxes that cumulatively will have a more negative effect on revenue than projected.

This proposal fails to address the real problem. The legal purchase age is not the same as the legal smoking age. These are young adults. This proposal legislates individual liberties and morality. If enacted, how will the new law treat 19 and 20-year-olds in the military? Twenty-five percent of high schoolers smoked cigarettes in 2001; 12% in 2011. The smoking education programs are working. This is a paper tiger because the State law only imposes penalties for selling to those under 18 and the County cannot enforce penalties for violations involving 19 and 20-year-olds.

I have a new statistic. Raising the age is not the answer, since the legal age to purchase alcohol is 21, yet according to the CDC, 60 to almost 80% of high schoolers drink alcohol, and 60% of them binge drink.

Dr. Spencer is a good man, and this proposal is well intentioned, but unfortunately IR 1039 will not prevent Suffolk's youth from smoking, but it will starve the County of badly needed tax revenues and cause a whole plethora of new problems. Thank you for your consideration.

**CHAIRMAN SPENCER:**

Jack, I cannot say anything against a guy that calls me a good man. I thank you for your testimony. I appreciate that.

**MR. RUGEN:**

You're quite welcome. I don't know you that well, but I can see you are a good man.

**CHAIRMAN SPENCER:**

Thank you. Phillip Castaldo.

**MR. CASTALDO:**

Good afternoon. Hearing all the information here and in the news about raising the age to purchase cigarettes and tobacco, it is clear that this bill will have no effect on stopping youth smoking. The only effect it will have is the loss of revenue for our County and small business, a loss that we cannot afford for very little or no gain.

This past Monday a lawsuit was filed against the County for misuse of \$33 million earmarked for clear water -- for clean water, I'm sorry. The County was using this money to plug the County's budget deficit. We hear it out here in the hallway. On January 31st the County was looking for creative ways to raise money without raising taxes. I would suggest that the \$20 million that New York State loses every month to the black market would be a great place to start. We also heard Save One Child. In reality, every Friday night six PM to Monday morning, six AM, 15

20-year-olds die in a car crash every hour. It's sad. Cigarettes and tobacco purchases do not rip families apart every hour of the day. Purchasing cigarettes til 21 won't save one child today. The facts speak for themselves. Jack said 12 to 17% of the high schools youth smoke today, which has been declining since 2002, yet 60 to 76% drink today. With the law to buy alcohol at 21, I see no one having a problem getting alcohol or tobacco, so raising it to 21 is not going to do anything to stop that.

Right now all the burden is on the retailer to enforce these laws. We don't have an onus on the children. The people that come in with phony ID and know that they're not old enough to buy it, nothing happens to them. Put the onus on them. I keep telling you, put the onus on them. Make them pay a fine, make their parents pay a penalty and maybe you can turn this around. But by raising the age from 19 to 21, that's not the solution, I'm sorry. And you are a good guy, by the way. This way you don't yell at me.

*(\*Laughter\*)*

It's sad about the car crashes, it really is. You know, a kid an hour for the whole weekend? You know, we have 16-year-olds out there driving cars, making a decision to make a left or a right or picking somebody and putting them in their car, but we can't give them the decision about buying a pack of cigarettes? I mean, you know, so -- thank you.

**CHAIRMAN SPENCER:**

Thanks, Mr. Castaldo. Thank you very much. I think your wife is coming up next. Dorothy? Hello.

**MS. CASTALDO:**

Hello. How are you?

**CHAIRMAN SPENCER:**

Very good. Thank you.

**MS. CASTALDO:**

You are a good guy. You're all saying it, so I might as well say it. I just wanted to reiterate what I have been saying for the last couple of meetings. I just want to review my concerns of why I feel the bill has no merit. The first and foremost is that 19 and 20-year-olds are serving in our military. Unfortunately, there is one of my customers that was going to try to make it here today. He just got out of boot camp. He's 19 years old and he smokes, and unfortunately he had another obligation. But he understands that he's not going to be able to smoke in the County now when he gets back from his deployment.

Also, like Phil mentioned, there is no consequences for the young kids smoking. You know, if you want to do something amend the present laws to allow for the kids who are purchasing it illegally or the kids that are buying it for their friends to be held accountable. This way the 18 and -- 18-year-olds is really what we're talking about. All the testimony was that the young high school kids that are still smoking, that's who we really need to continue to reach out to.

My third concern is, again, the drinking age is 21, but the high percentage of high school Seniors and Juniors that are drinking and getting the alcohol, it hasn't deterred them from doing so.

The last thing is changing laws that have to do with deciding when our kids become adults. We have a law that says our sons have to register for selective service at 18. We have a law that says they can vote. Parents right now at 18 do not have to have that medical -- they could have -- they do not have to have access to their children's medical records. Eighteen year-olds can have an abortion. They can file for credit applications and they can also apply for school loans. They also can drive a car. We've all heard of 17-year-olds who have had accidents, 18-year-olds who have had abortions and 19-year-olds, first year Freshman, college students, who have abused debit and credit cards because they didn't know any better. But the fact of the matter is those are all legal, adult decisions that kids have to make. Unfortunately, we need to address the 17 and 18-year-olds,

the ones that are still in high school. We don't need to address laws that are going to change the 19-year-olds and 20-year-olds. I can walk away this time, right?

*(\*Laughter\*)*

**CHAIRMAN SPENCER:**

You can. Thank you, Ms. Castaldo. Joan Anderson. Joan Anderson?

**MS. ANDERSON:**

Good afternoon, everybody. My name is Joan Anderson. I'm the mother of three; a 30-year old RN that smokes avidly and buys all her cigarettes out at the Indian Reservation; a 27-year old Coast Guard helicopter pilot who would never pick up a cigarette; and a 23-year old GM mechanic who would never pick up a cigarette. I am a retired hospice care nurse, so I definitely understand the health issues. I've cared for many a dying patient and it's never nice.

I am also a 7-Eleven franchisee for the last 33 years. I have attended both of these hearings here regarding bill 1039 and sat quietly. I returned to my store after the Riverhead meeting and I thought I need to talk to people, I want to see what they say. I spoke to 68 of my smoking customers and I asked them, "When did you start smoking?" And if they told me underage or whatever, I would then ask them, "Well, where did you get your cigarettes?" Out of the 68 people, four of them thought your law, your new bill, was a good idea and would make a difference. Fifty-eight of them believed the law would absolutely do nothing. Five of them that I spoke with did not -- I'm sorry, five of them that I spoke with started in their late 20's. The others, many responses we have heard already. "My parents bought them for me." "Oh, our school janitor sold them to us." "I got them from the city bus driver." "I started smoking at my babysitter's and then she paid me in cigarettes." "Oh, my professor in college got me started."

Two of the people that I spoke with, I see them every single morning for coffee, they are two of our teachers. They've both been teachers for 25 and 27 years respectively, and they both agreed cigarette smoking has definitely declined in the high schools and they're happy to say that, and they do believe that it's because of the educational programs that were put in place for our elementary buildings and also for our high school buildings. So the one teacher said, "Yeah, ironic. My classroom doesn't smell like cigarette smoke anymore, now it smells like pot". What have we done? What have we improved? You know, we all chuckled, but it's not really a chuckle, it's pretty serious.

We give an 18-year-old, like the others have said, a license, a car. For every mile driven by a 16 or 19-year-old, they are four times more likely to be involved in a car crash. Four-thousand 16 to 20-year-olds die each year in an auto accident, and another 380,000 are injured as a result. Are you going to change this law, too, to save some lives? I realize what you are trying to do to raise this age in your minds is a good thing. But what we are telling -- what are we telling our young adults who we send off to college to live on their own, who we send to war. My 20-year-old cousin leaves April 20th for a tour in Afghanistan.

**CHAIRMAN SPENCER:**

I'm so sorry. I have to have you wrap it up.

**MS. ANDERSON:**

Okay. Doug does not smoke, but if he chooses to, what would I say to him? "No, Doug, you can't. It's not good for you, but go to war and fight for me." So you if pass bill 1039, as a small business I will lose sales, you the County will lose tax dollars and we will have diminished the rights of our young adults. Please remember you are not God. We will die of something someday, no matter how healthy we may each choose to live our lives. Thanks.

**CHAIRMAN SPENCER:**

Thank you. Kevin Beyer.

**MR. BEYER:**

Good afternoon. I'm Kevin Beyer, President of Long Island Gasoline Retailers Association. I didn't have the opportunity to speak in Riverhead, but I did speak here the first time. I just want to go on the record again. First, I would like to start with a concern about the potential piece of legislation. During all the prior discussion the topic seems to be going to children, which is muddying up the waters. Many statements that were made included protecting the kids. That isn't what's on the table.

This potential legislation pertains to adults. You are talking about making decisions for adults, not children. At 19, like everybody has said, you are considered an adult who's allowed to vote, get married, join the military, make financial decisions without the consent of a parent or guardian. At 19 you can gamble and play the New York State Lottery, which some will argue can lead to a gambling problem that might lead them down a dark path.

We all know the risks and dangers associated with smoking long before we hit 19. The schools have been educating our children from a very early age the harm that cigarettes can cause. A 19-year-old has more knowledge about the potential dangers of smoking than any other generation due to all the early education they received.

This legislation, though well intentioned, will not stop 19-year-olds from getting cigarettes, but will just shift the marketplace to the unregulated areas in order to get the cigarettes. This legislation will also harm the legitimate businesses that are regulated and are trying to abide by the current laws. Thank you.

**CHAIRMAN SPENCER:**

Thank you, Kevin. It's nice to see you once again.

**MR. BEYER:**

You too.

*(\*The following testimony was taken & transcribed by  
Alison Mahoney - Court Reporter\*)*

**CHAIRMAN SPENCER:**

Sort of continuing with our public comment but also our presentation, Jay Schneiderman, our Deputy Presiding Officer, happy to have him here, he's -- they submitted cards as part of the public testimony, but he has requested that they have a chance to come to the table. So, Jay, if you want to introduce them.

**D.P.O. SCHNEIDERMAN:**

Thank you, Chair Spencer. So we have some travelers from quite a distance, from across the Long Island Sound. We have several members of the Western Long Island Sound Lobsterman's Association. They've come from Connecticut. They wanted to address the committee about the efforts in Connecticut to put some restrictions on the use of Methoprene. I have a similar bill here in this committee, and I'd like to invite three of those members up; Roger Frate, Michael Kalaman and Tony Carlo, and they will also be joined by our Peconic Baykeeper, Kevin McAllister. Gentlemen, if you'll come to this front table.

While they are coming up, Methoprene is one of the chemicals that our Vector Control Division uses to control mosquito in their larval state. The bill that I've introduced limits the use on the early stages of larva within salt marsh estuaries, so prohibiting Methoprene unless the Health Commissioner allows it on those early stages and instead favoring another chemical that's also part of our Vector Control Plan which is a bacterial component called BTI. And without further ado, I'll turn things over to Roger Frate, and he can talk a little bit about his experience as a lobsterman and the experience in Connecticut.

**CHAIRMAN SPENCER:**

Good afternoon, gentlemen, and welcome. I thank you for your time and coming. I apologize for the delay. What we hope to do, we typically, especially to the lateness of the hour, if you wanted to each have a comment just within a reasonable amount of time and then we'll offer some questions. So, thank you.

**MR. FRATE:**

Thank you very much for listening to us. My name is Roger Frate, I'm President of Western Long Island Sound Lobster Association. I've been a fisherman for over 50 years. I started the first logbook in the State of Connecticut.

We're here to try to get the State to adapt a bill that our state passed. The bill -- is July 21st, Connecticut passed a bill, outlawing Methoprene and/or Resmethrin. The people that passed this were Senator Bob Duff, Senator Backer, Senator Craig Miner, Senator Leone, Senator Steinberg, Senator Lisa Wright and the Governor signed this right away. The Long Island Sound was a \$100 million industry before Hurricane Floyd, 1999. There was approximately eleven hundred fishermen; that's just in Connecticut. The lobster is an arthropod. It's the same thing as -- it's an insect. 1999, the EPA admitted loading 155,000 storm drains with pesticides through New York, Long Island and Connecticut. Spraying out of helicopters, birds dying, fish dying, lobster shows us 90 to 100% down.

West Nile started this problem, and here it is going on 15 years and the Sound is completely dead. There's no fish. They're coming in the spring and run right back out. Champlin's Seafood, 2000 -- two thousand in Newport, thirty some-odd boats bankrupt. The only thing they used up there for mosquito control was Methoprene. Those briquettes last 60 days to 90 days. The fisherman finally outlawed it. The fish are -- the lobsters are back in the harbors. Connecticut and New York got six-and-a-half million dollars, Yukon {Silanickis} and Dr. French proved that their immune system was blown apart by all the pesticides after Hurricane Floyd. That was 1999. In 2004, they had a lawsuit, \$125 million lawsuit. Connecticut could prove exactly what killed them and the pesticides that blew their immune system apart. And they were forced to change the result at Stony Brook University and we settled on 17-and-a-half million dollars.

Terry Backer Senator Duff, Blumenthal, they had me calling every town to use BTI in the State of Connecticut and New York. It made a difference. But the problems we have are New York. We can't get New York to use the same chemicals we use. Now, if our state could use bacteria, which is BTI, or Four Star or Vyex which Rhode Island is using and get all the chemicals out of the storm drains, we don't stand a chance. Bryan Backenson did it in Albany, he's been great, but Suffolk County, for one major problem, will not work. He was here when they testified against the lawsuit with Kevin here. For some reason Suffolk County overpowers it. I'm in the west end of Long Island Sound, when that water flows down and along the shoreline lobsters just start dying and running.

You know, I can sit here all day and all night and talk. I just wish Connecticut and New York could work together because the border turns and us fisherman see it. Now, a hundred million dollar industry just in Connecticut, that's 14 years, the lobster industry's been here since the 17th Century. That's a lot of money. I don't understand how the Governor here allows this. The fish run out of here, the Sound is really -- the fish come in in the spring and here comes the chemicals. How could Connecticut outlaw all adulticides in these storm drains and in the marsh, only BTI. The only adulticides they allow inland are -- what is this, scourge and Anvil with a special permit away from the water. Blumenthal, the Federal center, he's been working with us, and we're trying to make this a Federal bill only because New York won't work with us. Now, he sued New York years ago for New York polluting Connecticut waters with the sewer treatment and collected \$2 billion. We don't want to sue, but we're all out of business. And I don't know why New York can't listen to us. We are fishermen, we pull off the bottom on the Sound. I've been going to Washington with the strongest people for the last 15 years. But I thank you for letting me talk so long.

**CHAIRMAN SPENCER:**

Thank you, Sir.

**MR. FRATE:**

You're welcome.

**MR. KALAMAN:**

Good afternoon, everybody. I'd like to thank you for inviting us here today. My name is Michael Kalaman, I am a career lobsterman of 35 years. The Western Long Island Sound Lobsterman's Association is here today to ask the State of New York to please adopt Connecticut's House Bill 6441, an act restricting the use of Methoprene and Resmethrin, two pesticides that are most commonly used to destroy mosquitoes in an attempt to control West Nile Virus.

Many people ask what is the connection between mosquitoes and lobsters, and the answer is not surprising. They are of the same biological Phylum, they are arthropods. Lobsters are the second cousin to mosquitoes, and the goal of these insecticides is to poison and kill biological organisms. What kills one species kills the other. Current recent research indicates that Methoprene is lethal to lobsters in concentration as low as one part per billion and has been shown to have extremely lethal effects to non-target insect groups. And some examples of non-target insect groups are horseshoe crabs, which are highly regarded for medical research, blue crabs, spider crabs, jona crabs and our grass shrimps, all vital components of Long Island Sound, all of which are crustations.

We lobstermen consider ourselves as the ultimate stewards of the environment; knowing this, we find it is incumbent for Connecticut and New York to do everything possible to protect the species *Homarus Americanus*. The American lobster is indigenous to the Long Island Sound ecosystem and has been for hundreds, if not thousands of years. The lobsters belong here and they deserve to be here. Ladies and gentlemen, please remember that lobsters do not have any geographical boundaries.

Having said that, the State of Connecticut has found that these pesticides are in lobster tissues, especially the heap at the pancreas, part of the reproductive organs in the female lobsters. I know this, as I provided the samples that were biopsied. It is documented to our DEP and University of Connecticut.

The point of contact is through bioaccumulation, as Methoprene is consistent and it does not break as rapidly as thought. This would explain bioaccumulation. Moreover, when Methoprene and Resmethrin when either one comes into contact with chlorine, commonly used to treat -- we treat wastewater, it magnifies their effects and transports the chemicals to the bottom where they come into contact with the lobsters and other crustatia. When this happens, the result is catastrophic.

They say a picture is worth a thousand words, and our proof has been documented on video since 2010. As far as the warm water theory, I have video proof in the dead of winter with water temps in the 40's, perfect temperature for lobsters, in 200 feet of water, I have the proof of dead and dying lobsters with external eggs, as well as dead and dying crabs. Our proof is in the back of the traps when they hauled up from the depths. Prior to 1999, the Sound's waters were nowhere near as clean as they are now. Back then, sewer treatments were not as stringent as they are now; in fact, the water color was a pale green. And on a good day, three feet of visibility was considered good, now the waters are gin clear and there are major gaps in the food chain. Over treatment of waste water is just a part of this equation. Because of this, various forms of Plankton and Phytoplankton are now absent from the food chain. These microorganism are the quintessential building blocks of life in Long Island Sound.

For years, water temperature has been the mask of the real problem, excuse me. For decades, hundreds of thousands of years, Long Island Sound has been subjected to sometimes extreme fluctuations of seasonal changes. Ladies and Gentlemen, this is not rocket science. In the winter the waters cool down and in the spring the waters warm up, thus beginning a new cycle of

photosynthesis, the very catalyst of life.

As mentioned before, in '99 and prior years, before the introduction of the West Nile pesticides, there were already environmental stressors in place out in the Sound. However, the lobster biomass was so plentiful and abundant due to the fact that we lobstermen were farming the stock. Once the introduction of these pesticides was done, that was the beginning of the end. Our logbook records indicate 90 to 100% drop in production after Hurricane Floyd. As I said in the beginning, in Connecticut alone the industry is worth a hundred million dollars. What would it be worth today had there not been a knee-jerk reaction? The time for environmental stewardship is now. The Western Long Island Sound Lobsterman's Association asks the Empire State to step into the 21st century, because these facts are real and obvious.

We Connecticut lobstermen ask of you to please abandon the draconian mindset and listen to us, the fishermen. Remember, we are the ultimate stewards of Long Island Sound. We count on that equilibrium that Mother Nature provides Long Island Sound. I referred to the draconian mindset in regard to nuisance spraying, since salt water mosquitoes are clearly incapable of transmitting West Nile Virus.

In lieu of this, the Western Long Island Sound Lobsterman's Association believes so strongly that the use of these pesticides, Methoprene and Resmethrin, are both dangerous and clearly not logical. Why wouldn't New York use a biologically friendly alternative like Connecticut does. Our Governor signed this bill and didn't even think twice about it.

The use of BTI is not only logical, it is the right thing to do for Long Island Sound. I would like to thank all of our politicians, our great Governor, Daniel Malloy, our great State Senators, the wonderful people of the Connecticut State Legislature for doing the right thing. I ask of you, please, New York, do the right thing. Respectfully yours, Michael Kalaman.

**CHAIRMAN SPENCER:**

Michael? Mr. Kalaman?

**MR. KALAMAN:**

Yes, Sir.

**CHAIRMAN SPENCER:**

You may need to take up another occupation.

**MR. KALAMAN:**

Thank you, Sir. I'm passionate about what I do, I love what I do.

**CHAIRMAN SPENCER:**

It's reflected. Thank you.

**MR. KALAMAN:**

Thank you.

**MR. CARLO:**

My name's Tony Carlo, I'm a Western Long Island fisherman for 35 years. I'm going to skip half of my stuff because Michael really covered a lot of my stuff, but I'm going to shoot right over into here where -- let's see here. I'm going to get into the global warming part of this.

I strongly, strongly do not believe in the global warming as far as killing our lobsters. The reason being is because like Mike had said, these lobsters are sick during the winter months. They are dying -- as a matter of fact, they're dying out there right now, and other species are dying with them right now. We're having a problem with conch, the meat in the conch are all turning into, like,

a gluey type of thing. They're not doing well. I think this relates to the bottom settlement is contaminated now for all the pesticides that are washing into this Sound. And -- I'm all over the place here now.

But anyways, for -- getting back into the crabs, we're talking about blue crabs. Blue crabs, they do not get infected until 90-degree water. Long Island Sound, the harbors don't get to 90 degrees. We have had -- we've had moratorium on -- we've had crabs dying on the North Shore and the South Shore after spraying throughout all the last 13, 14 years. Going back, I think it was 2008, there was, like, a massive kill over here on the south shore with -- and I could be wrong with the year, but it was right around the timeframe, but it's all after, and it's consistent with the spraying.

In the middle of Long Island, everything's running into the middle of the Sound through streams. I'm just throwing this together here now, I'm sorry. Was it Cornell?

**MR. KALAMAN:**

Cornell, yes.

**MR. CARLO:**

Cornell University has all the documents for all the natural springs that are running into Long Island Sound. They are feeding into 200 feet of water. This is how these chemicals are getting into Long Island Sound basins, they're getting into the middle of the Sound. It takes weeks after the fact and it's just -- when it comes down to the global warming, I don't buy it because, like I said, the blue crabs are dying, they're still dying, and they're dying for a reason.

Getting into that, now we are talking about a \$100 million industry in 1999. What would it be worth today? How many jobs have been lost? How much money is the State of New York spending on trying to create jobs? We have hundreds, maybe a couple of thousand jobs sitting in Long Island Sound; it's just waiting for people to go out there and work. We can't afford to go out there and work right now, and it's just a shame that we've gotten to this point where the Sound is -- it's a victim; it's a victim, and it can be cured. I'm going -- I'm going to stop there and I'm going to let him talk because I don't want to run over.

**CHAIRMAN SPENCER:**

I was able to follow your point.

**MR. CARLO:**

I'm sorry.

**CHAIRMAN SPENCER:**

No, I think you did just fine. I was able to follow your point, the fact --

**MR. CARLO:**

I just didn't want to repeat everything.

**CHAIRMAN SPENCER:**

They're getting sick when it's cold. And if was due to global warming, then why are they getting sick when it's cold?

**MR. CARLO:**

They're still dying.

**CHAIRMAN SPENCER:**

Mr. McAllister.

**MR. McALLISTER:**

Yes, thank you.

**CHAIRMAN SPENCER:**

How are you? Nice to see you.

**MR. McALLISTER:**

Likewise.

**CHAIRMAN SPENCER:**

Thank you.

**MR. McALLISTER:**

You have heard me before, I've been speaking to this issue probably since 2001, with the escalation of pesticide applications as it relates to mosquito control under the guise of West Nile Virus, which is very questionable. With that said, you have heard me speak about, in particular, Methoprene. We have an alternative here, and let me point out a couple of key points.

Okay, so if we assume and take at, you know, face value that West Nile Virus is a concern, a public health concern -- and I believe, Mr. Spencer, you're a Doctor, correct? If I'm not mistaken.

**CHAIRMAN SPENCER:**

*(Nodded head yes)*

**MR. McALLISTER:**

If we assume at face value that this is a legitimate health concern, all right, we're talking about flying mosquitoes. Methoprene is a larvicide that is applied to water bodies to basically chemically trigger mosquitoes into moulting prematurely, and you've heard the two gentlemen speak about this. So, my point is we're targeting a life form that is not a carrier of West Nile, all right? And we have an alternative here with BTI. So, there's another larvicide that is fairly benign in the environment with respect to certainly Methoprene. The science is pretty confounding, pretty substantial; Methoprene is bad news. And I'm sorry, unfortunately -- and it's legal. So, the County's not doing anything illegal with respect to the use of Methoprene, but I will say that EPA, as they generate the science, it's -- the science is lagging the implications here, unfortunately.

You've heard Connecticut, Rhode Island, other states are moving in the direction of banning this poison from direct applications. You have an alternative use here, I think -- you know, obviously with BTI. So, even if we're suggesting that, okay, we need to suppress mosquito populations, therefore reducing the threat of West Nile; well, your hands aren't tied here.

It's most unfortunate that we continue to go down this road, and you're hearing from my colleagues talking about the implications to their livelihoods, their industry. And for the life of me, I just don't understand, particularly -- and let me go back, and I might have my dates a little incorrect. But it was this County, Suffolk County, led the nation in banning DDT; did you know that? And I ask that rhetorically. Before EPA actually banned DDT, this County took the action because of implications to the biota, to living life. And that was so, I think, forceful, so -- demonstrated such leadership. And I'm asking you now, through Legislator Schneiderman's bill, show -- demonstrate the leadership again. Take this poison out of our arsenal here, because there's a direct application. And I'm telling you, although it's legal with EPA, it doesn't mean the sciences confound it. And for that matter, with the Environmental Impact Study that was done, which is very suspect, quite frankly; but with that said, there were 21 studies that were identified that identified Methoprene as having deleterious impacts to the aquatic environment that were not identified.

Do the right thing. Just take -- park it, man, and demonstrate leadership in this County as you did in 1968, '69, whenever it was. Demonstrate it again, support this Legislator to my left, ban this product, support my friends to my right and left where their livelihoods and others that are not here today are counting on leadership to basically ensure that poisons are kept out of the water at a

juncture and time where our waters are in great threat.  
Thank you.

**CHAIRMAN SPENCER:**

Thank you. Legislator Trotta has a question for you, gentlemen.

**LEG. TROTТА:**

I grew up in Kings Park my whole life, 50 years. I've been fishing since I was born. I agree with everything you said, the lobsters are gone. I used to scuba dive and get probably more than my fair share in the '80's, and they're gone; however, the one thing that threw me off is the past few years I've seen a lot of blue claw crabs which I never saw before in Kings Park, and it may be in the past three or four years they're starting to come back, and that sort of doesn't go along with what you were saying. I just wondered if there was an explanation.

**MR. McALLISTER:**

Well, I will say crustations in general are very cyclic, as is the fisheries. So, you can ride waves with production; in other words, reproduction. You can have years of enormous production and years of less production. It still doesn't say that Methoprene applications on water bodies in the marsh, and particularly when we start getting into the lower life forms of crustations. You know, things that you don't think matter -- you're asking a question about blue claw crabs. Well, what about all the other stuff that might be being knocked out that we're not aware of it? And we know the toxicity of this product in the aquatic environment, the science confirms that. So, why apply it when we have an alternative?

**LEG. TROTТА:**

I agree. Are there studies that say -- you know, I'm trying to research now, this is sort of new to me.

**MR. McALLISTER:**

Absolutely there are studies. There's plenty of studies out there. And this County -- and shame on you all. And I don't mean you personally, I'm just saying. When you did the Environment Impact Study through a consultant that was hired for, I think, six or \$7 million and I go in and I find 21 studies that are not identified that show deleterious impacts from Methoprene, and this consultant that you paid millions of dollars did not identify that? Shame on you all for not having fiduciary responsibility over Suffolk County resources. Shame on you all.

**LEG. TROTТА:**

I just got elected.

*(\*Laughter\*)*

My concern is that there are -- you said -- someone mentioned blue claw crabs, if it affects them, and then -- and what about the nitrogen? The nitrogen levels are through the roof in the Sound. I mean, it's --

**MR. CARLO:**

They're not. We were at --

**MS. MAHONEY:**

Please use the microphone.

**MR. KALAMAN:**

I'm sorry. Go ahead, Roger.

**MR. FRATE:**

In 2007, Westchester, New York came through with -- at an EPA meeting, came through with a graph by the nitrogen they took out of the wastewater and dumped into the Sound. They dumped between 58 and 86% of the wastewater. And as far as these blue shell crabs go, they'll migrate right back in like they did in Maryland, Ocean City, Maryland. When they used the West Nile there, all the boats were going bankrupt. Southside here, they ran and they came back, just like Newport, Rhode Island. Every fisherman thought they were bankrupt. It took about three years. They outlawed that Methoprene, and you go up there now and the lobsters come right back to shore. But all the regulations, the in-shore boats can't make a living. The boats a hundred, 200 miles out are making a living.

When the lobsters were dying up there and running out into the ocean, Clinical Lobster sent a diver down. I was up there, they had about two feet of dead lobsters. But they will run and once that -- what it does, what I heard, it kills the oxygen three to four times as high as the nitrogen, that's just malarky. I've been out there all my life.

I own Darien Seafood. For the last 15 years, going on 15 years, I've been on the phone night and day, directed by the strongest guys in Long Island Sound, Senator Gunther, 40 years, he tried to get -- tried to get rid of these chemicals out of the storm drains in a marsh 40 to 50 years ago. I can give you a list of people that I worked with, but you would -- you'd be amazed, the most powerful people from the government to the State are behind this.

I don't know where New York is coming from, but I can tell you this. When these guys load the storm drains with these pesticides, especially in the west here, I had them stop for a year back in 2004, I was on the phone, lobsters were healthy. As soon as they went back to that Methoprene, you get an inch and a half of rain, me and my son fishing, the two biggest fishermen in Long Island Sound by logbook, and you watch these lobsters start running, disappearing, running to the east. When they come up, just like that land steward said, the biologist from UConn, he's also got a Doctorate's Degree in Chemist, it ruins their nervous system and they die right near traps shedding. And then when the chemicals really get them, the meat stinks, it runs out, it's disgusting. Beautiful lobsters, and you pick them up, the smell is so bad. That just started in '99 after the West Nile, and this Methoprene last 60 days to 90 days. It contaminates that mud.

I mean, you people know how to run your court system. If you were with me and my son and all the other fishermen, you're talking 1,150 fisherman, from the Sound to the ocean, you would believe it. I mean, if they can kill the ocean. Rhode Island, I mean, you call Champlin Seafood, 32 boats bankrupt. You call Clinical Lobster, another 40 boats bankrupt. Now with all these regulations in Washington, it's a disgrace. If they came back knee deep, you couldn't make a living. And all I see going on, including our State, making a living off of regulations at what they already know, because {saventigi geese} proved it and he proved it every year, and he can't tell the truth because they won't get money, and that's our state, too, and I started a logbook, so this day would never come, and it came. But New York ought to be ashamed of themselves. Me? I'd fire everyone that's using these chemicals like they are wasting money on you. Thank you.

**LEG. TROTTA:**

I can definitely -- you know, I used to say when I scuba dived, I would bring people scuba diving and there's a lobster under every rock; most of them are this big, but they were under every rock. I tried last year to bring my son, I couldn't find one under a rock, couldn't find one lobster in Kings Park. And there used to be five lobster boats and there's none now.

**D.P.O. SCHNEIDERMAN:**

On that point, I believe in 1995 there was some four million pounds of lobster in the Long Island Sound; today, it's less than a hundred thousand pounds, it probably is significantly less. So, it's pretty much the full elimination of the lobster population of the Long Island Sound.

**MR. FRATE:**

You know, Mr. Schneiderman, I'll say one more thing. They had a graph in Washington running

from a one to a ten. You know, this is Long Island Sound, Maine, Rhode Island, Newport. Long Island Sound was at an eight, Maine was at a three; that's before West Nile started. Now we're down to zero. We're 99% less fisherman. Maine captured the market. I talked to the men in Washington, the site of the Landsdale Main Fishery, they don't allow any chemicals at all. They felt sorry for us. Our gain is three and three-eighths, going to go to three and a half. Theirs is three and a quarter, they get 80, 90 million pounds a year and we're bankrupt. And you know what? These are Long Island lobsters, which half of them are owned by New York and half of them are owned by Connecticut. The body of water in New York owns half the middle, the other half is Connecticut's. There's no Federal water out here. That's why I can't believe Landsdale Main Fishery controls us. It's a shame.

**LEG. TROTTA:**

This BTI, is it effective as the other for killing mosquitoes?

**MR. FRATE:**

It kills the larva. It kills the larva. I mean, it really -- Darien was --

**LEG. TROTTA:**

It doesn't affect the lobsters?

**MR. FRATE:**

No, not at all. Not at all. Darien's the first to try it. The first year EPA loaded those storm drains, everything died in their harbor, the blue crabs, the mussels, everything was dead flowing out of the harbor. The next year we talked the Mayor into using BTI, nothing died. Norwalk, Stamford used the Methoprene, the scourge, blue shells floating down dead, lobsters running dead. We experimented this and I'm bringing you to the ocean. It took a lot of work. But I thank you. I don't want to get mad here. I appreciate it.

Mr. Schneiderman, I really thank you. God bless you. But I can't believe how far New York is behind. And Doc Gunther blamed the fishermen here, they never did anything. I fished with George Doll, he's the Mayor now over in Northport, I fished with all the guys since the 60's and not one of them is here. I mean, really, that's why we lost the Sound. We have a strong body of people, but we're all -- the old guys are all dying. Thank you.

**MR. KALAMAN:**

I'd like to touch on something that Roger just mentioned about when these lobsters die from these pesticides. Lobsters by nature are very aggressive, even towards one another, sometimes even cannibalistic. One thing about nature, when something dies in nature, it's consumed by everything in nature. And when these lobsters die from this, nothing eats them. They literally rot till there's nothing left, and that is a disgrace.

**MR. McALLISTER:**

Telltale.

**MR. KALAMAN:**

That is a fact. In nature, nothing gets wasted, nothing. Think about that. Think about that. Thank you.

**MR. CARLO:**

Can I just say one more thing, just maybe to touch on your subject?  
In the mid 2000s, Connecticut changed over to BTI.

**MR. KALAMAN:**

Uh-huh.

**MR. CARLO:**

Okay? 2009, 2010, just to let you know, the lobsters ended up coming back.

**MR. KALAMAN:**

They did.

**MR. CARLO:**

Boats were coming in with five to 800 pounds a day. So, they do move in and out, they come in from Hell's Gate, they come in from the east, they do migrate. We also have residential. We used to have a lot of residential, as you might know, but they do migrate in and out and I'm sure that's what the crabs do. I don't really know that much about the crabs, all I know is one day I just Googled it, wanted to know what -- when their bodies get compromised and infections start at 80 degree -- you know, when it hits 80 degrees, that's when they get compromised.

I don't buy the global warming again, and the reason being is because I also raised lobsters in holding traps in my boat in eleven feet of water all year long and they also -- they shed it, they did everything they were supposed to do. And then I let them go after about a year and a half, but I was just trying to connect, you know, do my own little research on things also. So, just to let you know, they do migrate in and out. So, I couldn't answer that truthfully, I couldn't answer your question why all of a sudden there's blue crabs there, but they do -- other than the migration.

**MR. FRATE:**

Can I say something about that? Okay, I was in charge of the V-Notch Program, our state did -- used a million two dollars worth of V-Notch and we cut -- they had three schools come out there with us and we clipped the tails and they were to protect the eggs, females for two years, they fall to the top and then of course the helicopters came by, the larva would flow to the top and they're gone, you know? Anyway, I was up in Newport figuring all the lobsters died, checking this boat out, Timothy McVain boat came back, I think it was 2007 or '08 and we V-notched 2006 and '07. He said to me, *"I'm catching hundreds and hundreds of V-Notch lobsters, 80 to 100 miles out,"* and I said, *"What size?"* He said, *"You know, a pound and a quarter, a pound and a half, tons of shorts."* And I said, *"Where are they coming from?"* He said, *"Well, my uncle said they're coming from Maine,"* but Maine does not V-Notch shorts. When I told our state that, our biologists that were behind all of this, so they do run in and out of the ocean.

Thank you.

**D.P.O. SCHNEIDERMAN:**

I want to thank you guys for coming. I know you traveled a long way and I know this is something you're passionate about and you've experienced directly. So the committee and the Legislature is going to take a look at this issue more closely and having your input I think is certainly beneficial. Thank you.

**MR. McALLISTER:**

Thanks for hearing us.

**CHAIRMAN SPENCER:**

Thank you very much, gentlemen. Have a safe trip back.

**MR. McALLISTER:**

We'll also weigh in, Mr. Spencer; I concur, you're a good man.

*(\*Laughter\*)*

**CHAIRMAN SPENCER:**

Thank you.

**MR. FRATE:**

Thank you again. God bless.

**CHAIRMAN SPENCER:**

Thank you. That's the end of our presentation. We're now going to move on to our agenda.

*(The following was transcribed by Kim Castiglione, Legislative Secretary)*

**MS. GELLERSTEIN:**

You need the Clerk.

**CHAIRMAN SPENCER:**

Could we get the Clerk back to the horseshoe, please? She just went to get a little more comfortable chair. She's on duty. There she goes. Thank you. Okay, so we're going to go to IR 1039.

**Tabled Resolutions**

***IR 1039 - Adopting Local Law No. -2014, A Local Law to raise the legal age for the sale of tobacco products in Suffolk County (Spencer).*** I would like to make a motion to approve.

**LEG. CALARCO:**

Second.

**CHAIRMAN SPENCER:**

All those in favor? Opposed?

**LEG. BROWNING:**

On the motion.

**CHAIRMAN SPENCER:**

On the motion, Legislator Browning.

**LEG. BROWNING:**

I think we've heard a lot of really good testimony on both sides. I just want to say, you know, it's not that I support anybody buying cigarettes, I certainly don't. I've never smoked a day in my life and none of my family do, thank God. I had parents who smoked. My father died of a heart attack at 65. But I, you know, I was talking to my son who's in the service about this bill. And while he's an anti-smoker and lives in Colorado, he's in the military, though, so don't think anything, but at the same time, you know, he -- you know, and I was telling him about it. And he signed up when he was -- I think he did the delayed entry when he was 17 for the military and his opinion was, you know, government really needs to stay out of our business and let us make decisions for ourself. So that's really the main reason why I don't support this bill. This is not -- and I did ask Doc if he was aware if there was a law against smoking at a certain age, and I don't believe there is. I think, you know -- is there? Do you know, Craig?

**MR. FREAS:**

In the course of my research on this, there's a Federal law that's -- you're not supposed -- it's technically illegal, although there's no penalty, to smoke if you are under 18 years of age in the United States. The last time that the Federal government raised their excise tax they also prohibited the minimum possession age, if you will, from being raised any higher than 18 years of age through the efforts of, I guess, the tobacco states. But the minimum legal purchase age is up to the individual states at this point.

**LEG. BROWNING:**

Right. And that's the thing, is that you might be making it illegal for, you know, the local 7-Eleven

or wherever to sell cigarettes, but, you know, I could quite easily go in, buy a pack of cigarettes and turn around and hand it over to my son, who's almost 19, and there's nothing illegal for me to give them to anyone; correct? This law does not change anything; right?

**MR. NOLAN:**

No.

**LEG. BROWNING:**

Right. So while I appreciate and I respect what you're doing, Doc, I, you know, I do strongly believe that at some point in time our adults have to have the right to make that decision for themselves, and I think government needs to really stop overreaching sometimes and making decisions for adults and let the adults make their decisions. And I hate to say it, you know, my Dad died at 65 from a heart attack and he was a heavy smoker for a long time. He quit when I was about 13, but by that time it's too late. So with that, I just cannot support the bill, but I wish you lots of luck.

**CHAIRMAN SPENCER:**

Thank you, Legislator Browning. Legislator Trotta.

**LEG. TROTТА:**

I feel almost the same way, except for a little bit different reason. I went and I interviewed kids in high schools and I've had more than one of them say to me -- I said, "What would you do if you couldn't get cigarettes until you were 21?" They said, "I'd want them more", which it never really crossed my mind that anybody would ever say that, because it's something you can't have, and I think with my law enforcement background, I see a lot of that where kids were susceptible to doing things they might not do because it's illegal like to do it because it's exciting. So in a weird way it might even drive kids to try it, which never even crossed my mind.

The second side of it is, I wish -- you know, if Nassau did it and we cracked down on the Indian Reservation, I know what bootlegging is. I know there's hundreds of millions of dollars of lost tax revenue, and while, you know, my concern really isn't -- while I care about the 7-Eleven owners, health always goes past everything. So it's a big dilemma, but at this point I can't support it at this juncture. If Nassau did it and we cut down on the Indian Reservation and I knew that it would be more enforceable and, you know, it was illegal, I would be more apt to do it. But at this point I just don't see teeth in it.

**CHAIRMAN SPENCER:**

So -- Legislator Calarco?

**LEG. CALARCO:**

Yeah, I appreciate it, Legislator Spencer. You know, I struggled with this one myself. I tend to really agree much with my colleagues here regarding responsibility and picking an age that people become adults and letting them become adults and making them become responsible for their actions. In fact, I strongly believe that we often move too far in the wrong direction and all we're really doing is allowing our young people to become less responsible than more responsible. But as I thought about this particular legislation, and we've listened to the testimony and I do have, you know, concerns for our retailers viability and their ability to survive, you know, we had one person testify that she put it at about seven percent of her sales come from this particular age group. And the problem with tobacco, which is even worse than the problem with alcohol, is that it's so addicting that it doesn't really take too much to get there. And so if you get a kid who is 18 or 19-years-old, and I was just reflecting on this the other day thinking about, you know, the decisions I made when I was 22 and 23, and some really bad decisions I made when I was that age, and how much I feel like I have matured as an adult that's getting to 34 years old, that, you know, at 18 and 19 you're still making some pretty bad decisions. You're still doing things for the wrong reasons and I think that there's a large population -- I think back to when I was in college and some of the things that I did then that I didn't do when I was in high school, and it's pretty telling to me that this is an age group that is pretty susceptible still to making a bad decision. And this is a bad decision that's going

to be with them for the rest of their lives because the addiction is just that strong. It's as bad as heroin at the end of the day.

So if we can do anything to protect even say 10% of that population from getting into it and starting smoking and keep them healthy and keep them from making our health care costs go up exceptionally, I think it's a worthwhile venture. And so after much struggle, I decided to support this.

**CHAIRMAN SPENCER:**

Thank you, Legislator Calarco. Legislator Martinez.

**LEG. MARTINEZ:**

Thank you. Just like many of you, the same thing here, but I think we also need to make sure that our younger, not just our teenagers, but they're starting a lot earlier, sixth grade, seventh grade, and you start seeing the youth at such an early age that, again, even if you were to prevent one child from not starting to smoke, knowing that there is a law that prohibits them, I think it will help. And we talk about educating them in the schools and bringing drug programs into the schools, but how can you do that when there's so many budget cuts taking place. And how are you going to introduce the education to these children when on a constant basis we're losing our guidance counselors and we're losing our social workers and our drug counselors, so it becomes difficult to also do that. So, Legislator Spencer, I do support your bill and I thank you for your efforts on making sure that our children are not smoking.

**CHAIRMAN SPENCER:**

Thank you, Legislator Martinez. I appreciate, again, my colleagues for a very long debate and I do want to reach out to my friends at the Gasoline Retailers and also the UFLI -- I forgot your organization.

**UNKNOWN AUDIENCE MEMBER:**

U-F-O-L-I.

**CHAIRMAN SPENCER:**

UFOLI. Well, thank you. And this, believe it or not, even introducing this was not an easy task for me. There's a lot of times where there are things that I look at as a doctor and also balance that to what I have as a public representative, and understanding the impact of the decisions that we make representing people not having a negative impact on businesses. So when I look at all the arguments on both sides, I think that one thing that we can agree upon is that there are negative health impacts of smoking. I don't even think that that's up for debate. I think the debate is one, will there be a devastating economic impact on our businesses? Is government going too far in terms of limiting personal liberties? And what is our role -- will it be effective?

And so if we look back at this entire debate, and I thought long and hard about this, stayed up at night wrestling with it, because I've spoken to all 18 of my colleagues and I know where they stand. And I think it comes down to this, first addressing the economic impact. When I looked at our retailers, they struggle every day. People that come in, they want me to ban plastic bags and they have to put signs and they have to -- they want to put generators in gas stations. And when I look at our gasoline retailers, I've been a friend and I've stood with them and I've met with them, and that's been one of the hardest things to look at this particular piece of legislation.

But I also came into this thinking that there was going to be a huge negative impact in terms of our tax revenue, and when I look -- I was surprised when I saw the analysis that came out of our Budget Review Office, and when I think of the things that we're struggling with and we talk about education, education is important. And when we look at the tobacco settlement fund, all of the funds that we're talking about towards education are mitigating the massive burden on society. So when we talk about the government interfering, we're all serving in government. We make decisions every day. And I believe that people should enjoy personal liberties and adults should

have the ability to make decisions for themselves, even if I disagree with them as a doctor or as a Legislator. That's not the issue here, but I also believe in our protective function.

We're stewards. We protect our infrastructure, we protect our highways. We are in charge of the police. And one of the things that as we started to debate this is that it's a lot of arbitrary landmarks in our society is 16 to drive, is 18 to serve in the military, it's 18 to vote, it's 19 to smoke, it's 21 to drink, it's 25 to rent a car without insurance, and a lot of these decisions we've made on the basis of kind of societal views, our political views of who was elected at the time.

And for the first time what I wanted to do, and how old is it before you can leave a child at home by themselves? When do we have a role as government, and I believe we have a role when it comes to a protective function. So, yes, young adults should make decisions for themselves. And when we see that someone who hasn't smoked by 18-years-old are three times less likely to smoke over their lifetime, but when someone hasn't smoked by age 21 they're 20 times less likely to smoke over their lifetime, that's coming from the tobacco industry. That tells me that there's an unlevel playing field there. There's something that's going on there. We see that there's an industry that devotes \$9 billion a year towards advertising and we see that this is directed towards a very small segment of the population.

So as I debated this, the question, you know, will it be effective? Yes. No one law is going to tackle everything. You will have people that will go to the reservations, you will have people that will go to Nassau. And by the way, Nassau did lay this bill on the table, Judy Jacobs. It's in the paper, and after the e-cigarettes bill that came out, and the bill has some support, but it is on the table in Nassau. And I do take -- I think that that's important. But when I look at the population and when I listen to American Lung that says one in three smokers will die of smoking related causes, when I look at those that smoke before 21 they're more quickly addicted to cigarettes, they -- it's more difficult for them to stop smoking over the course of their lifetime, and then when I look at the economic impact when our Budget Review Office, there are 1700 convenience stores in Suffolk County and a calculation of about 6,000 smokers in that age range. And so when I look at the three smokers per store, an average smoking a half a pack is about 1.5 packs per store.

Now, we can debate back and forth, but when I look at a benefit, and you know who's going to lose the most in this? Do you know what business owner is going to take the biggest hit from this? Me, myself. I've got skin in the game. I'm an airway doctor. I take care of babies with asthma. I take care of people who have cancers. I employ 15 people. My business is 100% based on what happens with cancers and the impact of smoking. I stand to take a massive hit on this. When I look, and I know the retailers receive a significant amount, and God bless our retailers and we should do everything we can to support you, and as you said about me, I respect you and I believe that you are good people. But when I look at will this be effective, it's a debate. So when we have a debate we look at the numbers and we can -- will it devastate business. It's a debate.

So then all I say is look at history. There is precedent here. There's established precedent. When you compare -- if you talk about the burden on retailers with regards to signage. Now, it's one sign. Smoking and drinking, 21 years old. Easy to remember. But when you look at precedent, in '82 when we raised the drinking age from 18 to 19, drinking rates dropped. When we raised it to 21 in 1985, they dropped and they have continued that trend over the past 20 years. And when we raised the smoking age to 19, smoking rates dropped.

In Needham, Massachusetts they did education since 1995 to 2005 and they saw the smoking rates drop, but when they passed the law in 2006, what they saw was that the smoking rates went down further. And as a consequence, cancer rates went down further, and they did see health care savings. And when we look at Needham, yes, it's not Suffolk County, it's 30,000, 35,000 people compared to 1.5 million. I got on the phone. In my office we called, we called business after business after business, and I understand the fears, not one business closed. In fact, the revenue didn't go down, didn't go down, you know, and so when I look at precedent of we've done it before, we've raised the age, we see that it does work. No one solution will do it, but government does

have a protective function. When we talk about 6,000 kids, one in three will die, you're talking about 2,000 lives. If you say half of them are going to go to the Indian Reservation and half of them are going to get it from someplace else, maybe it's 1,000 lives. I'll bargain with you, maybe it's 500 lives. If we talk about saving \$2.7 billion over 50 years, that's about \$56 million a year when we're having a difficult time.

So we got legislation that can potentially save lives. Smoking cigarettes, tobacco products are the only product that we sell that are 100% toxic at the point of sale. There is no medicinal reason, no medicinal reason. Drinking, you can argue that the drinking rates might be higher, but drinking at least there can be some arguments that there's some medicinal quality and that alcohol in some quantities are safe. Smoking -- every time you smoke you may not die from it, but it is always toxic. But it's the only thing that we sell that's like that.

So I'm going to work with our business leaders. They may not think I'm that much of a great guy, but I am going to work to create convenient Saturdays, to drive business to them, to congratulate them. CVS walked away from billions of dollars. I believe in my heart, I believe as a physician, I believe as a Legislator we are going to save lives, we are going to protect our budgets, we are going to protect our bottom line, and this is what government is supposed to do. We're supposed to protect and that's what we're doing here. So that's why I put this forward. That's why I'm going to ask my colleagues to search your conscious. I respect those that feel that they have a difference of opinion and we'll put it to a vote.

So with that, all those in favor? The motion carries three to two. I thank you. **(Vote: 3-2-0-0 - Opposed: Legislators Trotta and Browning)**

**(\*The following was transcribed by Alison Mahoney - Court Reporter\*)**

**CHAIRMAN SPENCER:**

Moving on to **IR 1042-14 - Establishing guidelines for the use of Methoprene in Suffolk County (Schneiderman)**. Now, my understanding is that there's a SEQRA. What is your desire on this?

**D.P.O. SCHNEIDERMAN:**

Well, you know, I'd like to see this bill move forward. I know that Cornell, for the last few months, has been doing some kind of literature research on this and trying to bring us up-to-date on that. The CEQ, this bill was in the past in front of CEQ, they felt it needed a supplemental EIS but didn't perform that work.

I can tell you this; A, that CEQ is an advisory board on the State Environmental Quality Review Act for us, they advise us. This bill was written precisely to conform with the EIS that the County has already done for its Vector Control Plan. That EIS, in its decision making table, specifically states that Methoprene should not be used, aerial sprayed in estuaries on the first two stages of mosquito larvae, Stage I and Stage II. That's what it says, it recommends against its use. But what the Department of Vector Control is doing in practice is to use combinations of Methoprene and BTI together on all stages of larvae in those estuaries. So that actually contravenes what the EIS recommended for that.

So I don't believe there is a need for a supplemental EIS because this bill is fully consistent with the environmental review that's already done. It doesn't, in fact, prohibit Methoprene. What it says is that the Health Commissioner may waive these restrictions if he makes a determination that it's necessary to do so.

So I would like to certainly see it move forward. I think there are enough red flags around Methoprene. There is a perfectly good alternative in BTI. You know, we would be following what New York City has done, what Connecticut has done, what Rhode Island has done, what Maine has done and many other areas in putting this simple restriction.

Understand that the mosquito that breeds West Nile does not typically come from salt marshes, it's a fresh water mosquito. And, you know, I urge you to study this issue fully. We are talking -- you know, we started using Methoprene and some people feel it has nothing to do with the lobster die-off, we started using it in 1995. The lobster population, again, there was four million pounds in the Sound at that point, today it's fully decimated. Some will say it has to do with temperature, other studies seem to indicate that Methoprene has such a radical effect on the immune system of lobsters that it weakens them and, you know, mild changes in the environment or pathogens in the environment then will lead to the die-off of the lobsters. So I'd be happy to answer any questions.

**CHAIRMAN SPENCER:**

I'd like to have -- Dominick Ninivaggi? Thanks, Dominick. Thanks for coming. I actually thought it was a very compelling argument that came forward. What's the other side of this? I can't figure out, there's BTI. I mean, even -- you know, you're looking at -- like one chemical. Why is there a huge debate here? I mean, you know, maybe you can argue that maybe it's not as that big of an impact. Even if the -- are the other alternatives so expensive that it's going to bankrupt us? Where do we stand? And I know that, Tom, you said that the County was studying it and doing a lit review. Where do we stand on this?

**MR. VAUGHN:**

*(Brief pause)*. Okay.

**CHAIRMAN SPENCER:**

You've learned to pause before you speak.

*(\*Laughter\*)*

**LEG. BROWNING:**

Should we have Dominic read the letter to make it easier?

**MR. VAUGHN:**

No. If you don't -- with the -- at the will of the committee, I wouldn't mind starting off on this one a little bit. *(Brief pause)*. Wow, it's been a long day.

There are a couple of issues here. And I think that for me personally, my grandfather was a brick layer. He helped build a lot of Medford and he spent a lot of years working in the sun working very hard. And my point to that is that it's very difficult for me to want to argue with people who do work that is far harder and more arduous and labor intensive than I do on a daily basis. I respect their opinions. They perform work that is -- that far exceeds what I do for a living, that's for darn sure.

But that being said, I think that one of the comments that the gentleman made was very interesting. They said that, *"Our Governor signed this without"* -- you know, he got it and he signed it. And that's fine, I have no issue with the way that the State of Connecticut decides to run their government. But what I would say is this; I think that we want the opportunity to look into this issue. I think that CEQ has -- this bill has been before CEQ twice, at least, and twice they have declared it as a Type I, not a Type II as listed in the sixth RESOLVED clause. So on its face, just from a technical standpoint, I believe that the bill is technically flawed because the bill, as it's currently written, declares that CEQ found that it was a Type II and that's just simply not the case.

CEQ also asked for a further EIS review and I would leave it to people who do have other letters other than MBA after their name to explain what that would be and what that would entail and the cost of such a study.

In-house we have started to look at this. We have been looking at this issue since the moment that Legislator Schneiderman first laid this bill on the table, and that was back in last year. And to do that, we have asked a number of people to look at -- to conduct a literature review of the available data and information. As a matter of fact, a number of the people who are currently working on that

lit review are here today; Amy Juchatz, Frank Castelli, and a lot of other people whose names I have just completely forgotten which is embarrassing. We also have Dominick Ninivaggi here with us today who has concerns from a public safety standpoint.

What we are asking for is this; we would like time to finish the lit review. When the lit review was started, we believed that we were looking at a much smaller group of data than we came upon. When we started the review in earnest, the data turned out to be 40% larger. There are over -- I believe the number that I heard, there's over 250 articles on this, on Methoprene. The team doing the review has been calling through to find out which ones are directly applicable to this issue. We just want to get it right and we want to make sure that we don't enter into a knee-jerk reaction and that -- because while there are a lot of people who say that Methoprene is a problem, there are a lot of people who say that it is not.

And that is where we are at. We would like the opportunity to be able to present the findings of the Methoprene study and go forward from there.

**D.P.O. SCHNEIDERMAN:**

A couple of comments, if I may. One is in terms of whether it's a Type I or a Type II, ultimately the determination goes to this body, so CEQ is fully advisory.

There was an EIS done on the Vector Control Program, Dominick's fully aware of it. And that EIS concluded that aerial spraying in salt marshes on larvae should -- of larvicides, we should only be using BTI on Stage I and Stage II.

**MR. NINIVAGGI:**

Sir, could you cite the part of the EIS that says that? Because I am not aware of it. I looked in the EIS, I could not find anything in the EIS that prohibits us from applying this material to Stage I and II larvae. So --

**D.P.O. SCHNEIDERMAN:**

Well, not that it prohibits, it recommends against it. It says you should use -- it says it's a BTI and I think there's three different BTI types of substances that were approved in the Vector Control Plan. I don't have that in front of me, but I could certainly provide you with that decision making table.

**MR. NINIVAGGI:**

Yeah, I would appreciate that.

**D.P.O. SCHNEIDERMAN:**

Okay. And then in terms of the timing of this, and this is really more to Tom, I understand there's a lot of literature; when will this be done?

**MR. VAUGHN:**

If the Chairman will -- Mr. Chairman, do you mind if we call Amy Juchatz? She's the person heading the lit review and I think that she can provide a timeline on this.

**CHAIRMAN SPENCER:**

Absolutely. Did Dominic, though -- the Legislators, my colleagues are asking for -- I guess, do you have a couple of -- just can you give us the landscape or the argument from your point of view?

When I hear four million pounds of lobster and there's a hundred thousand pounds, I mean, you know, I don't see what a lit review -- I'm just in my mind, if I see that there's some potential action that we can take, are you going to turn around and tell me that it's safe? Tell me the -- you know, the cost benefit anal -- what do you -- what are -- give me an alternative sort of view out there. Because if someone says, "*I see something go from four million to a hundred thousand pounds,*" and you tell me we're going to do a lit review, give me -- I need more (*laughter*).

**MR. NINIVAGGI:**

All right. Thank you for -- you have to understand. You know, I was listening to what these gentlemen were saying and the overwhelming majority of it is completely false. It's completely false. EPA does not apply pesticides. There's no evidence that 151,000 catch basins were treated. There's no evidence that Methoprene is persistent in the environment. There's no evidence that there's underground transport of Methoprene to the Long Island Sound. You know, I could go up and down the list.

Many of these things, I know that they feel these things passionately, that they absolutely and positively believe them. What I think you should do is ask them for citations in the scientific literature to back that up. And I think -- I'm very confident you will find that there is no scientific literature to back this up, and I think that that's an important thing.

As far as the use of Methoprene in the program. There's no one wonder material that we can use that's applicable in every situation. Methoprene is one of the tools in the tool box. BTI is a good product, we've used it since 1982, you know, we're one of the first people to use it. We're very well aware of it. However, it doesn't work in all situations, particularly in the salt marsh, particularly in the later larval stations. Methoprene works much better in that case.

We used to try to run a program with only BTI, and when we switched to using both of those materials, the number of salt marsh mosquitoes reaching our traps dropped by 80 to 90%. Now, this is where we talk about an integrated program. By dropping the numbers of flying mosquitoes reaching the residential areas, we had the very important benefit of not having to spray those residential areas anywhere near as often as we used to. What this means is that we did not have to spray with pesticides the areas where the people lived. We could control the mosquitoes away from the people, we didn't have to expose the people to pesticides. That's why you can't just arbitrarily make such a big change in the program without regarding the consequences. If we were to arbitrarily decide we're not going to use this material, we need to take into account the likelihood that we're going to be spraying residential areas more, which means we're going to have to completely look at our impact statement in terms of human health impacts of treating people with pesticides. We'd also have to look at what are the possible ramifications in terms of public health.

I think it's very important when people come up to you and you testify, that you ask them, you know, with some standard to back up the statements that they make. We certainly have all our information in the EIS. We've looked at this very carefully, we've looked at the science. Mr. McAllister talks about 21 studies. Well, we looked at those studies and, you know, some of them were in Japanese, some of them were irrelevant and they didn't change anything.

Nonetheless, we continue to look at the literature, we continue to diligently search that and we keep on coming up with the same answer, that the studies we did, the evaluations we did are valid. The idea that -- one of the things about pesticide effects are acute effects, the idea that something drops dead right away, which is what we're claiming here. That is very well-known in these pesticides, and the studies are well done. It's very clear that amounts of material that we have, that we use could not cause the kind of effects that are being alleged here.

We should also keep in mind, the Methoprene that we use is overwhelmingly, not in Long Island Sound or anywhere near Long Island Sound, but in the south shore. So it's impossible for this material that we're using in the south shore to have any effects on the lobsters. So even if we were to completely stop using that material on the south shore of the Island, we would have absolutely no effect on the lobsters because we're not affecting the lobsters to begin with, we're not putting the material where it's going to impact the lobsters. So I think that's a real important thing.

I could go on extensively on this, but just the point of view is that we've looked at these things very carefully, we've looked at the impact of the entire program and we think the program stands very well as it is.

**CHAIRMAN SPENCER:**

Thank you, Dominick. Thank you. Legislator Calarco has a concern, a question, a comment.

**LEG. CALARCO:**

A couple of quick questions for you, Dominick. One of the things we have heard over and over from people about why we should not be spraying in the salt -- in the marshes is because the salt water mosquito is not a vector; is that accurate?

**MR. NINIVAGGI:**

No, that is not accurate. First of all, there are several species of mosquitoes that are produced in salt marshes such as *Culex Salinarius* which is actually one of the most effective vectors for West Nile Virus, because it bites both birds and mosquitoes, so it's an excellent, what we call bridge vector. So right away that statement is false.

In addition, our primary salt marsh mosquito, *Aedes Sollicitans*, is a competent vector for West Nile Virus. And more importantly, it's the most efficient known vector for Eastern Equine Encephalitis, which is also a virus we find here in Suffolk County, and that has a higher fatality rate than West Nile Virus. So again, that statement is simply false.

In addition, when mosquitoes are biting people in excessive numbers, that adversely affects your health. Even CDC is on record that you don't need to catch a disease from a mosquito for it to adversely affect your health. And if you think about it -- I mean, I'm in contact with the public, you know, if the mosquitoes are out of hand, I hear about it. And a mother will call me and say, *"My son has"* -- *"My little boy has 50 mosquito bites."* I can't say to that person, *"Well, yeah, but they're not getting West Nile Virus, so it's not affecting their health."* So I think we need to keep these things in perspective.

**LEG. CALARCO:**

Okay. So there's -- in your opinion, there are most certainly vectors that are breeding -- the mosquitoes that breed in the salt water marshes are vectors and carrying of diseases that we have to be conscious of. Not to mention of the nuisance problem. And trust me, when my little girl gets, you know, just five or six mosquito bites, you know, she swells right up, I feel for her.

**MR. NINIVAGGI:**

Yeah, that's correct.

**LEG. CALARCO:**

Okay. And then the other thing you just mentioned, and I did want to ask about this, you said that overwhelmingly the Methoprene that we do use is utilized along the south shore, not in the north shore or waterway areas that would feed into the Sound?

**MR. NINIVAGGI:**

Yeah, that's correct. Because most of our usage is applications in salt marshes and the type of salt marsh that you'd find in the south shore is the type that tends to produce a lot of the mosquitoes. The type of salt marsh you have on the north shore produces many fewer mosquitoes and there's really no major marsh in the north shore that requires that kind of treatment. We've got a small marsh out at Iron Pier.

And as far as putting material in catch basins, these catch basins don't drain into the Sound. There might be a handful of them, but overwhelmingly our catch basins drain into groundwater. And once -- even if this material did get into groundwater, it would very -- it attaches to particles and soils extremely tightly. So there's not -- it's no possible mechanism for it to get into Long Island Sound, and I think that's a very important thing. It's important to look at the facts.

**LEG. CALARCO:**

How often do you on average spray along the north shore areas?

**MR. NINIVAGGI:**

We don't do any -- like I said, there's a small marsh out in the Riverhead area where we do aerial larval control with Methoprene. We have a small number of catch basins, but we don't do any of them along the shoreline itself. The catch basins we do, for instance, in Huntington are very well inland, so there's really no application to Long Island Sound for this material.

**LEG. CALARCO:**

So there's, in your opinion, a very highly unlikelihood that much of the Methoprene we spray is making its way into the Sound in any way. So when they cite that the one point -- one part per billion effects a lobster, which sounds pretty extreme, you're feeling that we're not even putting that much into the Sound.

**MR. NINIVAGGI:**

No. As a matter of fact, we actually have made measurements on this where we've actually gone out where the helicopter has actually put the material in the salt marsh and then we followed up on it. And you get low part per billion levels in the area where that's what you want because that's what you're treating the mosquito larvae, but this rapidly degrades within a matter of hours to days down to the part per trillion level. So again, the idea that -- and I question, number one, whether -- part per billion levels are not going to make lobsters keel over and drop dead; that is well-known. But those levels are -- they're not going to be remotely approached, even in, they say the Great South Bay directly outside the marsh.

**LEG. CALARCO:**

Has anybody tested Methoprene levels in the waters of the Sound?

**MR. NINIVAGGI:**

I don't know about the waters of the Sound because, again, you're not going to find it there. But we have tested it, again, directly after our applications in the areas where we apply it.

**LEG. CALARCO:**

So along the south shore mostly. And when do we usually come up with numbers on that after our application?

**MR. NINIVAGGI:**

Again, it's low part per billion, which is essentially the application rate in the marsh itself, and within days it degrades to the part per trillion into the non-detect levels. And there are publications that actually have this data out there that can give you the real specifics. So we have looked at this.

**MS. JUCHATZ:**

I can just elaborate a little bit more on that. We funded the USGS to do some of that monitoring for us, and I think it's even quicker than that, Dominick, that the levels go below one part per billion within the area that was treated. So we are trying to be diligent in, you know, the areas where we treat just to find out what the environmental fate is of Methoprene as well as other mosquito control pesticides that are used. So we are trying to keep a watchful eye on what's going on.

**LEG. CALARCO:**

So one of the other things that the gentlemen who came and spoke mentioned was that they were also noticing some pretty dire effects along -- among the blue claw crab population in the Sound. And I happen to be a south shore guy, so you're spraying down in my neck of the woods and my residents appreciate it. But we also like to go crabbing. You know, I go down to Mascott Dock down in the Village of Patchogue and, you know, they still allow you to go out at night and throw your chicken off tied to a string and pull the crabs up. So have we seen any adverse effects or notice any wide-range die-off of the crab populations in the south shore in the bay?

**MR. NINIVAGGI:**

The answer is no. As a matter of fact, if you look at crab landings over the years since we started

using Methoprene, there's no relationship. Sometimes they go up, sometimes they go down, they're in the same range as they were before we started. So again, there's just no evidence that there's an adverse impact.

**LEG. CALARCO:**

Yeah, that was my anecdotal experience. You've got to really get down there early and muscle your way in to get room on the dock. So I appreciate it. Thank you.

**D.P.O. SCHNEIDERMAN:**

Now, just on the record, Dominick. You had asked me before where that was -- that information in terms of the guidance for using Methoprene is. It's page 166 of the Long-Term Vector Control Plan under Table 18, Larvicide Decision Table, and it says, *"For aerial larviciding, salt marshes, that it would be stages I and II, larvae, BTI and older Methoprene, as well as other salt marshes has the same guidance."*

**MR. NINIVAGGI:**

But I think if you look at a little further, it also talks about using the mixture, which is what we do. Basically there are -- because BTI works well in Stage I's and II's and the Methoprene works better in III's and IV's, if we find all four stages out there we'll use a mixture of both products, and I think you'll find that in there as well.

**D.P.O. SCHNEIDERMAN:**

If you look prior to it, you see all the concerns raised about Methoprene potentially having impacts on shellfish -- or not shellfish populations, but lobster and crabs.

**MR. NINIVAGGI:**

Well, people have raised a lot of concerns, but when you look at the actual levels out there, the levels are below levels of concern. So people can have their opinion and they can have their emotional feeling as to what the effects are, but when you scientifically look at the levels that we put out there and their effects, you don't see these impacts.

**D.P.O. SCHNEIDERMAN:**

Again, I'm just quoting from guidance that was developed through an EIS that was fairly exhaustive, and this is what it concluded. To me it sounds like you're not following that guidance; you may have enough flexibility in the way it's written to do that. This bill puts a little more pressure to follow that guidance.

**MR. NINIVAGGI:**

I would respectfully disagree with that, but I can take another look at that if you'd like.

**CHAIRMAN SPENCER:**

I have a question, then Legislator Browning. I have two questions. And again, I had made the previous argument and was talking about precedent. Why did Connecticut ban it, first of all?

And then the second question is when I look at Legislator Schneiderman's bill, which has kind of pointed out that, you know, that it may be applied for Stage III and IV, but with Stage I and II it says, you know, if there's like a particular health threat I guess in a particular -- *define for the purpose as a semi-enclosed coastal water body where fresh water and salt water meet and mix, when there are one or more disease threats, including but not limited to West Nile, Eastern Equine Encephalitis have been positively identified or bacterial larvae treatments have been unsuccessful.*" I mean, this seems pretty reasonable. You had a whole state that banded, you know, it seems like there's other thing that are going on here that say, *"Well, you know, the literature is not that clear."* I mean, so what's going on?

**MR. VAUGHN:**

Dr. Spencer, I'm going to defer to Amy Juchatz, but the short answer is that that's precisely -- you

asked before why do a lit review, and that's precisely the reason why we would do a lit review. Let's take a look at the evidence that the State of Connecticut used in coming to a conclusion and let's see if all the evidence was considered, let's see what are the other pieces of literature, what are the other scientific studies out there that either refute or support the position that Connecticut took.

**CHAIRMAN SPENCER:**

Tom, I can do, you know, an all-nighter and do a research paper or a lit review. I know there's 21 journals that are out there, I know you have to vet things to a certain extent. But you're talking about something that if you look at the transcript, and this was something I guess that kind of -- at the end of last year we knew it was kind of coming down the pike and there were inquiries about it. It's March, so, you know, Legislator Schneiderman, you know, has introduced something that's not an outright ban. What's -- what's taking so long?

**MR. NINIVAGGI:**

Well, can I speak to the practical matter first? The reality is is that we apply larvicides to control the mosquito larvae, that is it's a preventative measure. By the time you know -- the only way to detect virus in mosquitoes is you have to catch adults and then send them off to the State lab and a week and a half later you get a result. Obviously by that time the prevention is gone, because now you have flying adult mosquitoes flying around with pathogens. To wait for finding pathogens before you control the larvae just doesn't make any sense. What we're trying to do is prevent emergencies. We're trying to prevent a situation where things are getting out of hand and there are lots of mosquitoes flying around with pathogens. That's why it's really completely impractical to wait for evidence of virus activity before we go after the mosquito larvae, because then we're not acting preventively which is, again, what the program and EIS calls for.

**CHAIRMAN SPENCER:**

Tom, I -- friends don't abuse friends on the record. I didn't mean that to seem confrontational, my question, I hope you don't take any offense to it. But I guess what I was just kind of -- I hear just a very compelling, passionate conversation. I'm hearing the balance to it and I appreciate what you're saying, and I see Legislator Schneiderman that has backed off kind of an outright ban and saying, you know, let's establish guidelines. And it seems that -- and so I'm just -- so I hope you're not taking any offense to just me kind of asking, you know, what's going on. So I apologize.

**MR. VAUGHN:**

Dr. Spencer, I would just like to reiterate the comments made earlier today by a number of people --

*(\*Laughter\*)*

-- that I believe that you are a good man. And if afterwards you'd like to go out for a malted, I'd be happy to.

*(\*Laughter\*)*

But I would also like to have Amy Juchatz just kind of talk a little bit about the lit review and where we are at with that, if that's okay.

**CHAIRMAN SPENCER:**

Hi, Amy.

**MS. JUCHATZ:**

Thank you. I will try not to take too long. But this is actually the third literature review that we've done for Methoprene. We did do a pretty comprehensive one with the Long-Term Plan and the EIS. There was -- I had done the human health side of the literature review and we did have a consultant who did the ecological one, and I think that was referred -- commented on by Kevin McAllister earlier. We did an update on that literature review that had been completed in 2005, we

did another update in 2010, and now so this is the third update that we are working on.

When we do a literature review, we try to do a very thorough look at the literature. So first, the first step is really to be sure that we have encompassed so that we don't run into comments that you didn't find these pieces of literature, that takes some time. And then the other part that we do is once we summarize the literature, we also try to compile a report and then have that sent out for peer review as well as review by a committee that still meets which is called the Vector Control Pesticide Management Committee to be sure that we haven't missed anything that we're interpreting everything. So it's not quite as simple as having one person sit down and review the literature. So that's part of what takes this process a little bit longer than what might just, at face value, seem like it should take. It's a very deliberate process and, again, we want to be sure that we haven't missed anything that is crucial to the evaluation.

So this is a multi-department literature review effort. And again, we will be meeting and sharing it with our Vector Control Pest Management Committee which also includes organizations that are outside County government to get their input on it before it becomes final.

And as was mentioned, there are many more pieces of literature to review than we initially thought. We have reached out to the states along the Atlantic coast, the northeast states to see if they have any additional information that may not be published in the literature. And so indeed we have certainly reached out to Connecticut, but we've also reached out to some of the other states in -- along the eastern coast, and that would also be included then in the literature review as well.

So we have been in touch with Connecticut and with the State Departments there and, you know, we'll be including their information in the review.

**CHAIRMAN SPENCER:**

So --

**MS. JUCHATZ:**

And so I guess from our department's perspective, you know, we -- we want to maintain, and I think this is how the County government has been. We want to maintain vigilance on what's going on with the Vector Control pesticide, so we have been maintaining, as I mentioned before, a monitoring program. We continue to look at the literature, we continue to meet with the Vector Control Pesticide Management Committee to see if there are ways that we can reduce, continue to reduce our pesticide usage in terms of Vector Control as well as elsewhere on County property. And so we continue to do that, continue to be vigilant. This literature review is part of that. But we just -- you know, we want to maintain that eye open and once we find scientific, credible scientific evidence that indicates changes should be made, you know, our department's position is that that will -- that's the point at which we would alter and modify, make recommendations to alter the current processes. But we feel that we need that credible scientific evidence to change what has already been shown.

**CHAIRMAN SPENCER:**

Thank you. Legislator Browning has a question.

**LEG. BROWNING:**

Okay, Dominick. You know, I'll never forget a presentation you did for us one time and you talked about how you managed, how you counted mosquitoes, but when you get to my district you weigh them.

*(\*Laughter\*)*

And I'll never forget that. I have to say, you know, when I look at, you know, the issue, I always dread the summer time, down around the Mastic Beach area, especially during a certain time of year when we're out knocking on doors, and you're always trying to work it out so you're not doing it

when the mosquitoes are out. You get chewed to pieces. Like Rob said, I remember my son swelling up on his legs. And everybody jokes where we live about our kids and the bites all over their legs, how bad they look, and we just kind of laugh, "*Well, it's the mosquitoes.*" But the BTI, again, if you could explain. You know, Kevin was saying BTI is a better alternative. So can you explain again the difference between using the BTI and the Methoprene?

**MR. NINIVAGGI:**

BTI is a wonderful material. Like I said, we've been using it for, what, thirty something years now. However, BTI is a bacterial particle. It's basically a stomach poisoning, and the mosquito larvae has to eat the particles, which means if there are a lot of other particles in the water, it's not going to be as effective which often happens in the salt marsh. Also, they're feeding at higher rates in the early stages, when they get to Stage IV they kind of stop feeding; at that point, they're not vulnerable to that material.

In the many, many years that we've been using BTI, you know, we found over and over again that in the early stages, and particularly in the summer when they're developing rapidly and they're -- you might go out Monday and, yeah, they're stage II, but by the time you get the helicopter out there, it's August, it's Stage III, if it takes you an extra day, it's Stage IV. It's a great material, but it's not a perfect material. It doesn't do everything, it doesn't work great in every situation, which of course no material does.

When we added Methoprene to the program -- and again, we did not substitute Methoprene for BTI, we added it to the program. We were able -- we now have a material that works in exactly those situations where BTI doesn't, and that's a very powerful thing. And again, what it does is it actually reduces our overall impacts, because we're not having to spray broad-spectrum pesticides. The materials you use for adult mosquitoes are broad-spectrum, they are -- they can kill a lot of things besides mosquitoes in terms of other insects. While the materials we're using, Methoprene, BTI and the salt marsh are very specific.

So again, the overall -- you have to look at these things not in isolation, but to where they fit into the overall integrated program, and in the overall integrated program, Methoprene is not a villain, it's a hero.

**LEG. BROWNING:**

And just real quick, we have had a really cold winter and a lot of snow. And I always have heard that this will help with our mosquito season. Is this going to help, like our summer season this year is going to be a better summer with the cold weather that we've had?

**MR. NINIVAGGI:**

Well, for most species, no. Like I always like to say the mosquitoes survived what killed the dinosaurs, so a little cold weather is not going to do them in. It may be that there may be some delays in development for the mosquitoes to transmit West Nile Virus, which would be a good thing because the later you see the virus the less activity you have. We do have a mosquito called the Asian Tiger Mosquito which is a more southern species, it's our invasive mosquito. It's the one where if you live inland and you have something flying around your ankles in the middle of the day, it's black and white, that's an Asian Tiger Mosquito. There is some evidence that very cold weather like we've had could adversely impact them, at least initially. I wish I could say it would kill them all off, but that's not likely to be the case. What I do hope is if it impacts the overwintering population, you know, we may see some benefit this year. But of course it doesn't take long. Mosquitoes are very good at reproducing, so they come back very quickly.

**LEG. BROWNING:**

Thank you, Dominick.

**CHAIRMAN SPENCER:**

Legislator Calarco.

**LEG. CALARCO:**

Dominick, just one quick question for you. Exactly how much Methoprene do we apply in a season and how much BTI and any other materials we might apply?

**MR. NINIVAGGI:**

I don't have those figures directly in front of me. I look at it in terms of acres treated, and -- well, last year it was a relatively low year and I think we treated about 15,000 acres with larvicides and it was about 50/50. It's hard to compare them directly because BTI is a bacteria, while Methoprene is a liquid, it's an actual chemical. So you can't like compare them in terms of pounds or ounces, you have to really look at it in terms of acres treated. But again, the overwhelming majority of that is going out in the salt marsh and it goes out as liquids that are very short duration materials.

**LEG. CALARCO:**

I'm done.

**LEG. TROTTA:**

What do you spray in Sunken Meadow Creek? I see the helicopter go by my house all the time.

**MR. NINIVAGGI:**

Well, we did spray either BTI or Methoprene in one marsh in Sunken Meadow Creek, we have for a number of years. With the creek opening up as a result of the hurricane, last year we found one instance where there were mosquitoes and we did treat with helicopter and we didn't need to treat for the rest of the season. We're monitoring that situation, but what we're hoping is that this will continue which is kind of what we thought. We were kind of happy when we saw that breach happen, because the salt, those north shore marshes typically don't produce a lot of mosquitoes and that seems to be happening at Sunken Meadow Creek. So you may not see the helicopter there very much in the future.

**LEG. TROTTA:**

Was that Methoprene you sprayed, or you don't know?

**MR. NINIVAGGI:**

It varies from week to week. I'm sure we have used Methoprene there. Basically every week we go out and we look at the conditions and we apply the appropriate material.

**LEG. TROTTA:**

And you threw stuff in the storm drains, too, by my house.

**MR. NINIVAGGI:**

Probably. I know there might be some storm drains in your area. Again, most of the storm drains on the north shore empty into recharge basins or their dry wells. There might be a handful where, you know, there's a surface discharge.

**LEG. TROTTA:**

Would that be Methoprene?

**MR. NINIVAGGI:**

In the June, July period we use Methoprene briquettes. As we get later in the summer, those briquettes are 150 days. We get later in the summer we don't need that, so we would apply a bacterial. So if it was late summer it was probably a bacterial, but we'd have to look at the records.

**LEG. TROTTA:**

I think it looked like a brick thing they threw in there.

**MR. NINIVAGGI:**

Well, there was probably a Methoprene briquette, but we do have BTI briquettes. As a matter of

fact, we just started using a briquette that has BTI and another bacterium, Bacillus Sphaericus. So we have a wide array of products we use.

**D.P.O. SCHNEIDERMAN:**

I'm sorry, did we get an answer in terms of when the review would be done? The lit review?

**MR. CASTELLI:**

Initially we had hoped that the entire review would be done by the end of March. Due to the fact that we -- we actually identified 76% increase in scientific literature to be reviewed. Originally we thought there would be about 147 that we identified, that was increased to 259. And these papers are very labor intensive to review, they're not simple reading, it would take many hours of time to read each paper. You know, I'm not one to make excuses, but the time to review even one of these articles is a couple of hours at least.

**D.P.O. SCHNEIDERMAN:**

I'm still not hearing -- because, you know, it is almost -- the time is almost upon us where they start spraying. Dominick, when is that, like more like Juneish, or May, June?

**MR. NINIVAGGI:**

Larval control typically starts in about May.

**D.P.O. SCHNEIDERMAN:**

In May.

**MR. CASTELLI:**

What we're doing --

**D.P.O. SCHNEIDERMAN:**

So, I mean, if it turns out that we do find there's a problem with Methoprene, then these simple guidelines wouldn't be in place for this season, we'd go through one more year, potentially putting a problem substance into the environment.

**MR. CASTELLI:**

Well, if I can finish. What I'm -- what we've committed ourselves to is to be -- while we won't be done with the entire literature search until probably another three or so months from now, we can commit to being done with the scientific literature regarding the effects of Methoprene on lobsters by the end of this month, by the end of March. We have committed ours internally to that.

**D.P.O. SCHNEIDERMAN:**

Okay, that's hopeful. So then you can report back to the committee with that?

**MR. CASTELLI:**

Yes, we will.

**D.P.O. SCHNEIDERMAN:**

With that limited information? Thank you.

**MR. CASTELLI:**

Yes.

**CHAIRMAN SPENCER:**

I'm happy to see the sponsor showing hope, which is great. So with the information that you've provided us, I'm going to ask and discuss with the sponsor for a motion to table. Is there a --

**LEG. CALARCO:**

Second.

**CHAIRMAN SPENCER:**

Second. All those in favor? Opposed? Okay, the *motion is tabled. (VOTE: 6-0-0-0 - Including Presiding Officer Gregory).*

I think that the sponsor really wants to make it very clear how serious -- he's brought this up for a couple of years in a row, he's our -- you know, this is our senior Legislator and we really want the Administration's utmost attention to this issue and I really -- this committee hopes it gets satisfactory answers.

**MR. VAUGHN:**

Doctor Spencer, I don't disagree with that. And that is why we've committed the amount of resources that we have been to looking at this. We understand and respect Legislator Schneiderman greatly, we want to do everything that we can do. If he's got a concern with something, we want to make sure -- we want to try and put his mind at ease on it and we -- all we're asking for is the time to be allowed to try and do that.

**D.P.O. SCHNEIDERMAN:**

Thank you.

**CHAIRMAN SPENCER:**

Thank you. Thank you very much. Thanks, Amy. Thanks, Dominick.

*(The following was transcribed by Kim Castiglione, Legislative Secretary)*

**IR 1096 - Adopting Local Law No. -2014, A Local Law to establish healthy food standards at Suffolk County Facilities (Hahn).** There is a public hearing so motion to table.

**LEG. CALARCO:**

Second.

**CHAIRMAN SPENCER:**

Second. All those in favor? Opposed? Abstentions? Motion and seconded by Legislator Calarco. *(Vote: 6-0-0-0 - Presiding Officer Gregory is included in the vote)*

**Introductory Resolutions**

**IR 1179 - Amending the 2014 Adopted Operating Budget to allocate 100% additional State Aid from the New York State Office of Mental Health for Mental Health Service Providers (Co. Exec.).** Motion to approve and place on the Consent Calendar.

**LEG. CALARCO:**

Second.

**CHAIRMAN SPENCER:**

Seconded by Legislator Calarco. All those in favor? Opposed? Abstention? 1179 is carried. *(Vote: 6-0-0-0 - Presiding Officer Gregory is included in the vote)*

**IR 1236 - Adopting Local Law No. -2014, A Local Law to require the use of biodegradable products by chain restaurants (Hahn).**

I'll make a motion to table for a public hearing. Seconded by Legislator Browning. All those in favor? Opposed? Abstention? Motion is tabled. *(Vote: 6-0-0-0 - Presiding Officer Gregory is included in the vote)*

**IR 1242 - Amending the 2014 Adopted Operating Budget to accept and appropriate additional 100% State Aid from the New York State Office of Alcoholism and Substance**

***Abuse Services to Riverhead Community Awareness (Co. Exec.)***. I'll make a motion to approve and place on the consent calendar.

**LEG. CALARCO:**

Second.

**CHAIRMAN SPENCER:**

Seconded by Legislator Calarco. All those in favor? Opposed? Abstention? Motion is carried. ***(Vote: 6-0-0-0 - Presiding Officer Gregory is included in the vote)***

***IR 1243 - Amending the 2014 Adopted Operating Budget to accept and appropriate 100% additional State Aid and to reallocate funds from the New York State Office of Mental Health for Personalized Recovery Oriented Services (PROS) providers (Co. Exec.)***. I'll make -- motion by Legislator Browning to approve and place on the consent calendar.

**LEG. CALARCO:**

Second.

**CHAIRMAN SPENCER:**

Seconded by Legislator Calarco. With that, I have no other items on the agenda, no other business before this -- oh, call the vote on that last one. All those in favor? Opposed? Abstention? Motion is carried. ***(Vote: 6-0-0-0 - Presiding Officer Gregory is included in the vote)***.

Thank you for a long day. We are adjourned.

***(\*The meeting was adjourned at 5:30 PM\*)***