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6 NASSAU COUNTY LEGISLATURE

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8 RICHARD NICOLELLO

9 PRESIDING OFFICER

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11 BUDGET REVIEW COMMITTEE

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13 LEGISLATOR VINCENT MUSCARELLA

14 CHAIR

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16

17 Theodore Roosevelt Building

18 1550 Franklin Avenue

19 Mineola, New York

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21

22 April 24, 2018

23 3:22 P.M.

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2     A P P E A R A N C E S:

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4     LEGISLATOR VINCENT MUSCARELLA

5                     Chair

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7     LEGISLATOR RICHARD NICOLELLO

8                     Vice Chair

9

10    LEGISLATOR HOWARD KOPEL

11

12    LEGISLATOR KEVAN ABRAHAMS

13                     Ranking member

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15    LEGISLATOR ELLEN BIRNBAUM

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2                   LEGISLATOR MUSCARELLA:       We are  
3 going to call the meeting of the Budget Review  
4 Committee to order. If you would all rise and  
5 please join me in the Pledge of Allegiance.

6                   (Pledge of Allegiance was recited.)

7                   LEGISLATOR MUSCARELLA:       The way  
8 we are going to do this is we are going to  
9 call up a number of individuals and then have  
10 some questions from the audience. I'm sorry,  
11 questions from the legislators. We are here  
12 today to consider or to hear from the  
13 administration and the county comptroller's  
14 office regarding where Nassau County found  
15 itself at the end of fiscal year 2017 and to  
16 get greater detail on the county executive's  
17 budget modifications for the 2018 fiscal  
18 budget year.

19                   In past years, under both  
20 Republican and Democratic administrations the  
21 fiscal year closing figures were always made  
22 available to the public after the close of the  
23 fiscal year. Usually around the end of  
24 February. This year those numbers have been  
25 delayed. We haven't received those numbers

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2   yet, nor has any detail been shared as to the  
3   budget modification submission to NIFA.

4           We are here basically to get a  
5   clear picture on these issues from the  
6   presenters and we would first, I guess, start  
7   with the administration. And we ask Deputy  
8   County Executive Page and budget director  
9   Persich to please just address us as you see  
10  fit.

11           MR. PAGE:     I'm Mark Page, Deputy  
12   County Executive for Finance. We thought we  
13   would take you through our presentation,  
14   hopefully not spending a great deal of time on  
15   it, and then look forward to doing our best to  
16   answer your questions on what we're talking  
17   about.

18           First, I'm going to ask Andy to  
19   talk about the 2017 year-end results.

20           MR. PERSICH:   2017 we're showing  
21   a deficit of \$50 million. There was some  
22   goods and bads for '17. One is sales tax  
23   revenue is still continuing to show good  
24   strength and will follow through in '18.  
25   We've had other expenses decline by about \$7.3

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2   million. Our principal and interest on debt  
3   service dropped by four million. We had  
4   salary savings of 6.7. Some other various  
5   revenue streams grew by 2.9 and state aid was  
6   up by about \$1 million. We have additional  
7   savings in OTPS of about 3.0. Which gave us a  
8   total positive variances in 2017 of about  
9   \$33.8 million.

10           Some of the bad news. Departmental  
11   revenues dropped by 6.6 percent. PILOTS  
12   dropped by 4.7. We also had some adjusting  
13   entries for VTLs that will be picked up in '18  
14   but will be a negative in '17 of 3.0.  
15   Interdepartmental charges dropped by 13.1.  
16   And the biggest number negative is the funding  
17   source, which was the nonborrowing for tax  
18   certs, which brought us down to \$83.9  
19   million. Which gave us a deficit of 50.1.

20           Now, the question will become I'm  
21   sure how does the fund balance factor into  
22   that? Of that \$50 million we will be using  
23   some of the fund balance to fund that  
24   deficit. That said, because we didn't  
25   appropriate it in the budget, we would have

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2    had to have taken out the '00 expense, back  
3    out the revenue from the other funding source  
4    and reappropriate it. Which would have been  
5    mass confusion at the end of the year.

6           What will happen is, the  
7    comptroller will talk how the function will  
8    work in the accounting world, but they'll just  
9    write the check to cover the fund balance at  
10   the end of the year.

11           MR. PAGE:     Basically the fund  
12   balance, they will write a check from fund  
13   balance to cover the deficit on a budget basis  
14   at the end of the year.

15           MR. PERSICH:   I see a lot of  
16   glazed looks. I know we're getting into the  
17   accounting world.

18           LEGISLATOR MUSCARELLA:     Maybe  
19   Rich, somebody will jump in with questions I  
20   guess.

21           MR. PERSICH:   I think it will be  
22   easier, just so we don't get lost on the topic  
23   because what I think you're going to ask me is  
24   how is the fund balance fitting into the \$50  
25   million deficit is what I think. We are

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2       covering part of it with that fund balance  
3       that we talked about with Restivo.

4                   LEGISLATOR MUSCARELLA:       You're  
5       already showing a negative balance though.

6                   MR. PAGE:       What we are showing  
7       is, if you compare the result of spending and  
8       revenue in '17 to the budget as in effect for  
9       '17 we've come out \$84 million -- I'm sorry,  
10      \$50 million net worse than the budget. The  
11      biggest difference between the budget as in  
12      effect in 2017 and this result is the budget,  
13      as it was put together at the beginning,  
14      included a source, other funding sources, of  
15      bond proceeds. That was going to be bonding  
16      for paying cert claims in 2017. That never  
17      happened. So, you're missing that revenue  
18      resource in 2017. Which gets you to a  
19      negative of about 50.

20                   Well, we obviously got through '17  
21      and we paid for it somehow, and the fact is  
22      that we paid for it by spending fund balance  
23      to cover our expenses in 2017. And that's not  
24      yet reflected here so you have the negative.  
25      But as a practical matter, that 50 is covered

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2       by using fund balance. And when the dust  
3       settles with the official result to 2017 it  
4       will show that.

5                   LEGISLATOR NICOLELLO:       At a  
6       minimum this is provisional what you're  
7       describing for us?

8                   MR. PAGE:       Yeah. We don't have  
9       final numbers for '17 officially and you will  
10      hear more from the comptroller on that.

11                  LEGISLATOR NICOLELLO:       The lion's  
12      share of this deficit is caused by the  
13      nonborrowing for tax certs?

14                  MR. PAGE:       Yes. As a practical  
15      matter.

16                  LEGISLATOR NICOLELLO:       I believe  
17      the number we're getting from our finance  
18      person was at least \$36 million was used from  
19      fund balance to make up for that loss of  
20      anticipated borrowing in 2017?

21                  MR. PAGE:       I think that the  
22      budget plan in 2017 included an expectation of  
23      using that \$36 million of fund balance. I  
24      think mechanically it was never actually  
25      appropriated in the official budget in 2017.



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2       So, although it was talked about it's not  
3       actually in the approved number structure of  
4       that budget. So you can think of it as inside  
5       this \$50 million. A piece of the \$50 million.

6                   LEGISLATOR NICOLELLO:       But you're  
7       saying that this \$50 million, what's showing  
8       currently with this I guess provisional  
9       year-end results, this \$50 million will be  
10      covered by fund balance?

11                  MR. PAGE:       Yes. But it's not 50  
12      plus 30 it's 50.

13                  LEGISLATOR NICOLELLO:       50 total.  
14      Thirty six had already been anticipated for  
15      the tax certs.

16                  MR. PERSICH:       36.4 is what we are  
17      projecting to use for tax certs.

18                  LEGISLATOR NICOLELLO:       So you  
19      will be adding an additional 13.6?

20                  MR. PERSICH:       Yeah. Some  
21      accounting issues for treatment of certain  
22      things that didn't come in '17 that will pick  
23      up in '18 because of the timing. I will let  
24      the comptroller discuss the reasons as to why.

25                  MR. PAGE:       The big piece is we

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2       are out of '17. We didn't run out of money.  
3       How did we cover it? At the end of the day  
4       you cover it because you have the fund balance  
5       to cover it with.

6           LEGISLATOR KOPEL:     So, a couple  
7       of months ago when we were voting on a bond we  
8       were told that we had to pretty much bond a  
9       certain expense. You remember what that was,  
10      the Restivo thing. We were told that we've  
11      already got a negative unassigned fund balance  
12      right now, right?

13          MR. PAGE:     And you can listen to  
14      the comptroller on that and that's probably  
15      true.

16          LEGISLATOR KOPEL:     The  
17      administration told us that as well.

18          MR. PAGE:     Yes.

19          LEGISLATOR KOPEL:     If you have a  
20      negative fund balance, unassigned fund  
21      balance, A, where is that money coming from  
22      now? How are you going to make it much more  
23      negative unassigned balance? And we're going  
24      to have to fill that hole at some point.  
25      Where is it all coming from?

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2 MR. PAGE: I guess there's  
3 probably something to be said -- I'm not going  
4 to be able to explain this clearly -- between  
5 unassigned and assigned bits of fund balance,  
6 because there are actually reserves that have  
7 limits on how you use them in addition to the  
8 unassigned balance. And if you go back and  
9 look at the fund balance number over the last,  
10 I don't know, five, six, seven years in the  
11 county, in a number of years it was actually  
12 considerably negative. And you might  
13 reasonably ask how could that possibly be?  
14 But the county was functioning.

15 LEGISLATOR KOPEL: You have cash  
16 and you use the cash.

17 MR. PAGE: Yeah.

18 LEGISLATOR KOPEL: So it's a  
19 difference between cash on the one hand and  
20 your accounting for it.

21 MR. PAGE: One of the things that  
22 was probably significant in past years and  
23 still makes some difference is the extent  
24 you've issued cash flow notes and they're  
25 outstanding across from one year to the next.

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2       That helps how much cash you actually have in  
3       the drawer. Although it probably doesn't help  
4       the official score on fund balance.

5                   LEGISLATOR KOPEL:     You can have  
6       lots of cash and still be bankrupt, right?

7                   MR. PAGE:     Maybe. And the  
8       question ultimately is whether you are  
9       insolvent. Which means literally you don't  
10      have cash in the drawer to meet the check  
11      you're writing today.

12                   LEGISLATOR KOPEL:     Or if your  
13      liabilities exceed your assets considerably.

14                   MR. PAGE:     Yeah. Although,  
15      again, when you're doing accrual accounting  
16      you can be carrying a liability but it doesn't  
17      have the day you're going to have to pay it in  
18      it. So, as long as you don't actually have to  
19      pay the liability immediately --

20                   LEGISLATOR KOPEL:     The cash is  
21      there and you float it. I understand. But in  
22      other words, what we would be doing in essence  
23      is invading further the cash available to meet  
24      the accrued obligations for which are assigned  
25      and B, for which we can't use fund balance.

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2                   MR. PAGE:       Yes.   It means you got  
3   less.

4                   LEGISLATOR KOPEL:       And we were  
5   told, I thought, forgive me if I  
6   missapprehended what we were told previously,  
7   but I thought you can't do that?

8                   MR. PAGE:       You know, numbers are  
9   a way of presenting where you are at any given  
10   moment.   And there are standards about how you  
11   present them, whether you're doing this on a  
12   budget basis or GAAP basis, and each one is a  
13   picture of where you are and each one is  
14   accurate in some way and probably not totally  
15   accurate.   As they move up and down it  
16   certainly gives you a general idea of how much  
17   latitude you have to deal with unexpected  
18   events.   And as you use this fund balance you  
19   have less latitude.   As it grows you have  
20   more.   It's a number that credit rating  
21   agencies for instance look at and complain  
22   about when it's going in the wrong way.

23                   We've spent quite a lot of time in  
24   the last week or so with the rating agencies,  
25   which ultimately confirmed the ratings they

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2       already had on our bonds. Which is nice.

3       That happened in the last day actually.

4                   But you think their numbers, they  
5       should be objectively accurate and represent  
6       exactly what's going on. And they're a  
7       picture. They're another artwork. They're  
8       not 100 percent accurate as to what's  
9       happening at any given moment.

10                   LEGISLATOR KOPEL:     So what you're  
11       telling me basically is accounting is a way to  
12       make things look however you want almost.  
13       Accounting is a wonderful thing.

14                   So, what I'm getting out of this,  
15       and please correct me if I'm misstating it, I  
16       don't want to do that, is that we're looking  
17       at it a different way than we looked at it a  
18       couple of months ago?

19                   MR. PAGE:       I don't know. On  
20       Restivo?

21                   LEGISLATOR KOPEL:     Yes.

22                   MR. PAGE:       We are looking at it  
23       differently because, as I will get into, the  
24       changes we've made and recognized as having  
25       happened in the update to the budget that we

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2       put out on March 15th. Because we actually in  
3       that update identified the resources to enable  
4       us on a budget basis to pay for Restivo. So,  
5       we actually swept together altogether about  
6       \$54 million worth of --

7                   LEGISLATOR KOPEL:     Cash.

8                   MR. PAGE:     -- better, whether  
9       expectation of revenues or expectation of  
10      spending less in this year and that gave us  
11      the room to, as a budget matter, included  
12      paying for Restivo out of our current  
13      resources in 2018.

14                   LEGISLATOR KOPEL:     So, I've  
15      deflected you long enough. Would you be so  
16      kind perhaps as to send the committee a bit of  
17      a written explanation of the differences  
18      between the two ways of looking at it? Would  
19      that be okay?

20                   MR. PERSICH:     We can do that.

21                   MR. PAGE:     Give it a shot. If  
22      you are as mystified after you read it as  
23      before --

24                   LEGISLATOR KOPEL:     I won't be  
25      surprised because I don't have accounting

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2   training.

3                   MR. PAGE:     Neither do I but I've  
4   dealt with it for a long time.

5                   LEGISLATOR MUSCARELLA:  
6   Mr. Nicoletto.

7                   LEGISLATOR NICOLELLO:     You  
8   mentioned Restivo.  Earlier this year, as  
9   obviously you're aware, the administration  
10  came to us with a plan to pay Restivo using  
11  \$45 million in bonds even though there was  
12  money set aside in a segregated account for  
13  the purpose of paying Restivo.  Ultimately we,  
14  after many hearings and many hours of  
15  deliberations, gave the administration \$23  
16  million in bonding at the request of the  
17  administration with the balance to come from  
18  this segregated account.  Was that plan ever  
19  submitted to NIFA?

20                  MR. PAGE:     NIFA was certainly  
21  aware of that plan.  Your authorization of  
22  that \$23 million exists.  It needed to happen  
23  before we actually made the payment out from  
24  that account or it would not and could not  
25  exist.



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2                   In the amendment to the budget on  
3   March 15th we complied with the NIFA mandate  
4   to have a plan that was GAAP balanced in 2018,  
5   as we will talk about in a minute. I don't  
6   know if we're going to hold on to that through  
7   '18. I think it's highly uncertain.

8                   But to rely on the bonding for \$23  
9   million of Restivo would, on NIFA's GAAP  
10   balance definition, put us \$23 million  
11   negative. It's useful because it's cash, and  
12   by the time we get to the end of this year we  
13   may well need it. But as of the update in  
14   March and events since we're actually doing  
15   fine on that GAAP standard. Ignoring a couple  
16   of major issues that I will talk about.

17                  LEGISLATOR NICOLELLO:     That was a  
18   very long answer to a very short question  
19   which asked basically, was the plan developed  
20   by the administration and put before us after  
21   many hours of deliberation, which was approved  
22   in terms of \$23 million in bonding, which, by  
23   the way, was told to us by administration  
24   officials that NIFA was okay with that plan,  
25   was that submitted to NIFA as the way to pay

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2   Restivo?

3           MR. PAGE:       No, it has not been  
4   submitted to NIFA. It was not submitted to  
5   NIFA in the update on March 15th. It may well  
6   be submitted to NIFA by the time we get to '18  
7   to have a viable plan through this year.

8           LEGISLATOR NICOLELLO:   That was  
9   the plan that the administration put forward  
10   that we did our part to authorize in terms of  
11   the bonding. What changed? Why wasn't that  
12   submitted to NIFA for approval?

13          MR. PAGE:       Because we were able  
14   to find resources in '18 to pay Restivo out of  
15   current resources in '18. Which meant that we  
16   could actually, in our budget as updated in  
17   March, meet the NIFA mandate that our budget  
18   be GAAP balanced.

19          LEGISLATOR NICOLELLO:   So, the  
20   administration unilaterally decided that it  
21   would not proceed with what it had proposed  
22   and what we had approved and decided it would  
23   go in a different direction? NIFA did not say  
24   to the administration you cannot do this. The  
25   administration, between February 5th or 6th

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2    when we approved this and the middle of March  
3    when you submitted the budget modification,  
4    unilaterally decided to go in a different  
5    direction?

6           MR. PAGE:     By the legislature  
7    authorizing that bonding before the payment  
8    was made on Restivo the county has the option  
9    to bond that \$23 million. If the legislature  
10   had not acted before the payment we would not  
11   have that option at all. We have a budget as  
12   of mid March that doesn't rely on that  
13   bonding. By the time we get through '18 I  
14   think there's a high chance we will be relying  
15   on that bonding to cover our needs.

16           LEGISLATOR NICOLELLO:     We  
17    approved the bonding to pay for the Restivo  
18    judgement. We did not approve it to be a  
19    fall-back position for the county to pay for  
20    any other expenses that came forward. So,  
21    from our perspective if you're not using it  
22    now we may consider withdrawing that  
23    authorization.

24           But you're saying that you were  
25    able to fill on a budgetary basis the gap.

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2       But to do that there are a variety of revenue  
3       sources. I want to focus in on one. Fees.  
4       You're proposing to fill part of Restivo, the  
5       Restivo expense, to increasing fees?

6                   MR. PAGE:       Yes.

7                   LEGISLATOR NICOLELLO:       Those fees  
8       have not been approved by this legislature and  
9       the indications that have been given by a  
10      number of us is that there's no appetite to go  
11      back to these types of fees. So, you  
12      submitted a document to NIFA but you haven't  
13      on any sort of basis filled the gap that's  
14      created by Restivo.

15                  MR. PAGE:       I don't think that's  
16      exactly true. In the portion of the balanced  
17      plan in March that relies on fees subject to  
18      approval by the legislature I believe it's  
19      about \$9.7 million.

20                  MR. PERSICH:       That would require  
21      your approval on.

22                  LEGISLATOR NICOLELLO:       Here's the  
23      objection we're going to have. There was, as  
24      represented by the administration, a plan to  
25      pay for Restivo using bonds proceeds that we

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2       authorized in the amount in a segregated  
3       account. The administration unilaterally,  
4       without even consulting us, despite the fact  
5       that we had gone through many hours of  
6       deliberation to authorize that bonding,  
7       unilaterally decided that they would not go in  
8       that direction. They were going into another  
9       direction. Part of which relies upon these  
10      fees, which the bulk of which certainly are  
11      not going to go through the legislature.  
12      Here's what concerns me.

13                   Restivo is an unusual case. An  
14      extreme case. \$45 million bonding. \$45  
15      million judgement. I understand you don't  
16      want to bond for such payments in general.  
17      But this is unusual, it's an emergency, anyone  
18      would understand that in certain circumstances  
19      if bonding is available and you can use it you  
20      use it. You've determined, the administration  
21      determined not to go down that path because  
22      you think you can achieve it in other ways in  
23      the budget.

24                   We, speaking for myself, do not  
25      believe that is an appropriate path to go in.

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2       Especially when this money has been either in  
3       an account and in bonding authorization to  
4       come back and now ask us to have the residents  
5       of Nassau County pay for more in fees when the  
6       money is already there to pay this judgement.

7           MR. PAGE:     As will be I think  
8       evident in this presentation, we also have  
9       something in the neighborhood of \$350 million  
10      of claims for tax overpayments that the county  
11      owes. In order for us to issue bonds for any  
12      purpose, as you are very much aware, we need  
13      NIFA's approval. That would include bonds for  
14      the \$23 million in Restivo. If at the end of  
15      the day the only means we think we have to  
16      meet the cost of accumulated claims for  
17      overpayments is to bond that too would require  
18      NIFA approval.

19           I think that a part of our concern  
20      is that we come up with a plan that actually  
21      we think meets our needs for this year and  
22      going forward to take to NIFA in the hope that  
23      we could get their approval of that plan as  
24      opposed to starting out in small pieces. We  
25      may well end up in small pieces. At least we

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2       would hope to have a plan that the pieces  
3       stacked up to make work.

4                   LEGISLATOR NICOLELLO:       Here's the  
5       thing. When we passed that bonding there was  
6       money in a segregated account for that  
7       purpose. We had many representations from the  
8       administration that there would be  
9       difficulties with cash flow, there would be  
10      potential bond rating decreases if we didn't  
11      pass this bonding. We had spent an entire  
12      year with people criticizing borrowing for  
13      various purposes. The Mangano administration  
14      had sought to borrow for the purpose of that  
15      Restivo judgement. So, it was with great  
16      difficulty that we agreed to even \$23 million  
17      for that purpose.

18                   Now we learn that unilaterally the  
19      administration decided not to submit that to  
20      NIFA and decided to go in a different  
21      direction. Now, we approved those bonds in  
22      good faith, but those actions of the  
23      administration to turn around and change the  
24      plan without telling us, to make us go through  
25      that entire exercise of multiple hearings and

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2       to go through the stress of having to vote for  
3       that bond to give this administration the  
4       chance to start off.

5                   Now for the administration on its  
6       own, without telling anybody, to change the  
7       entire plan you have unilaterally not only  
8       made that budget modification but you have  
9       eroded whatever good faith exists. So, not  
10      only would we consider withdrawal of the  
11      authorization for that bonding, but we will be  
12      very skeptical as we go forward for the rest  
13      of this year.

14                  Our position was come to us as we  
15      go through the year. If you need additional  
16      borrowing we will consider it. But at this  
17      point I don't know why we would do that.  
18      Because we may give you authorization to use  
19      bonds for various purposes but we have no  
20      ability to know if you're actually going to  
21      use those. You may come up with another plan  
22      down the road.

23                  So again, by this action you have  
24      eroded the good faith that existed on January  
25      1st when we started. You have also eroded the



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2   good faith of the five members on this side of  
3   the aisle after much thought and consternation  
4   went and gave the authorization to that  
5   administration to give the administration a  
6   good start to this year.

7           So, I can't say as strongly words  
8   as I possibly can. Again, you have eroded the  
9   good faith that existed unilaterally without  
10   notice to anyone. If you had told me it went  
11   to NIFA and NIFA said no, it would have been a  
12   different set of questions that arose. But  
13   NIFA didn't even have a chance to opine on  
14   this.

15           Again, we were told when this was  
16   going on that, in fact, NIFA would approve  
17   it. So, that's number one.

18           Number two, these fees that you are  
19   relying on in part they're not going to  
20   happen. Maybe some of these we will  
21   consider. There are new fees for services are  
22   not being charged. We're not going back and  
23   asking people to pay another \$5 for red light  
24   cameras. They're already paying \$150 a  
25   piece. We're not going back to raising park

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2       fees that were recently raised.

3           So, I don't know where your budget  
4       modification plan is but I'm certainly  
5       concerned about the way this administration is  
6       going about it's business just from the  
7       standpoint of transparency.

8           MR. PAGE:     It's unfortunate that  
9       you see it that way. I think that the action  
10      that the administration asked for was  
11      extremely time sensitive. We had been here  
12      for I guess a month when that discussion took  
13      place. The payment was required to be made I  
14      believe February 8th, and in order to have the  
15      possibility of bonding that expense  
16      legislative action had to happen before the  
17      payment on February 8th.

18           Since then we spent considerable  
19      amount of time and energy trying to find  
20      whether we could come up with a viable plan to  
21      actually pay our expenses out of current funds  
22      in '18. We had a number of actions reflected  
23      in the March 15th proposal that enabled us to  
24      identify resources that we had not identified  
25      as of the end of January that we think are

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2   available to us in '18.

3           We've covered Restivo. We also  
4   covered a number of add backs that we would  
5   propose against the cuts that were imposed at  
6   the beginning of '18 on the '18 budget. Some  
7   of it was fortuitous. The economy is doing  
8   well. The sales tax collections are doing  
9   well. We've moved up that assumption. We  
10   think that's a reasonably conservative  
11   action. Collections so far this year are well  
12   above the three percent increase annually that  
13   we put in. We have had lower social service  
14   expenses because the case loads are actually  
15   somewhat lower. Which probably relates to job  
16   numbers that are doing very well in the  
17   county. And a number of other actions that  
18   were identified that we thought were doable  
19   and made sense to improve what resources are  
20   realistically available to us in this year.

21           We've not done that as of the end  
22   of January. We did do that between then and  
23   the end of March. Much of this is in fact a  
24   proposal. Adding back spending for various  
25   purposes is subject to appropriation and

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2       approval by this body. That remains in the  
3       future in terms of whether and how it's to be  
4       done.

5                   I keep going back to the timing  
6       need for that bonding authorization, and I  
7       think it's unfortunate that we didn't  
8       understand each other better in terms of  
9       whether -- I suppose in 20-20 hindsight that  
10      we were going to find other resources  
11      available above and beyond increases in fees  
12      that would do us good this year.

13                  LEGISLATOR NICOLELLO:     I've  
14      already probably beaten this to death. A  
15      couple of points. We went through those  
16      hearings and there was not one word or hint  
17      that you were looking to do this any other  
18      way. It was impressed upon us that this was  
19      the only way to do it. That cash flow issues  
20      would be tremendous and a potential bond  
21      rating decrease. Somehow between February 6th  
22      and March 14th we were able to cobble together  
23      this plan. But again, in terms of disclosure,  
24      transparency not a word was given to us that  
25      we are moving away from the original plan and

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2       submitting something different to NIFA.

3                   Third, in terms of the money you  
4       were able to identified over the last month,  
5       you haven't touched the additional spending  
6       needs that are in this county. You have to  
7       hire more fire marshals. You have to hire  
8       more correction officers. You haven't touched  
9       those here. While you have identified  
10      additional monies to fill the gap because now  
11      we're paying Restivo through operating, you  
12      still have many others needs that remain  
13      untouched.

14                  MR. PAGE:       We have provided for  
15      hiring of new correction officers, and I guess  
16      we can get into the details on the rest of  
17      it. I would just point out that the  
18      difficulty with paying for Restivo or other  
19      current expenses with bonds is that although  
20      it works at the time it leaves you the  
21      obligation to pay back the bond in the  
22      future. So that using that mechanism,  
23      although it's obviously necessary from time to  
24      time, isn't free.

25                  LEGISLATOR NICOLELLO:       We made

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2   those exact same arguments because we did not  
3   want to bond at all. We did not want to spend  
4   a dollar in bonding because there was money in  
5   this segregated account. We made those exact  
6   same arguments over and over again and members  
7   of the administration argued over and over  
8   again we need this money. Cash flow. Bond  
9   rating decrease. Now you're making the same  
10   arguments we made and throwing it back in our  
11   face.

12           Again, going forward we will be  
13   skeptical when we get requests from this  
14   administration. Particularly in the area of  
15   borrowing because we don't know if after we  
16   make the approvals if you may decide to go in  
17   a different direction.

18           MR. PAGE:     I hear your  
19   statement. I'm not sure that skepticism is  
20   the worst thing in the world. But I hope that  
21   it can be answered in a way that will convince  
22   you of the substance of what we are saying  
23   from time to time.

24           LEGISLATOR MUSCARELLA:     If I  
25   might just jump in and we've talked about this

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2       maybe enough. But had the administration  
3       maybe come to us and said look, if we're going  
4       to do the bonding we need this bonding right  
5       away. And if we do the bonding it gives us a  
6       great deal more latitude and options in the  
7       future to deal with the budgetary problems of  
8       the county we may have done it anyway. But it  
9       really was presented to us as it's necessary,  
10      it has to be done this way. There is no other  
11      way. If we don't do it it would be  
12      detrimental to the county.

13                Let me ask you a loaded question.  
14      Was this the plan all along to get us to bond  
15      and then to use that money later on in the  
16      future or did the administration happen to  
17      come upon this change of plan afterwards  
18      through research or reconfiguring?

19               MR. PAGE:     I keep going back to  
20      this legal problem, which is that you have to  
21      have the bond organization in order to be able  
22      to do it before you expend the money.

23               LEGISLATOR MUSCARELLA:     We  
24      understood that there was a deadline to do the  
25      bond.

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2 MR. PAGE: In answer to your  
3 further question, I think at the time the  
4 administration was asking for that bonding  
5 authority it really had no idea what could  
6 otherwise be done in '18 to address this  
7 need. We did a considerable amount of work  
8 between the end of January and mid March to  
9 try to lay out where we were and what  
10 resources we might be able to identify this  
11 year. And I think we were fortunate, quite  
12 honestly, in several just changes in our  
13 circumstances with time. The sales tax being  
14 one of them. In that period that quite  
15 honestly I don't think we would have  
16 necessarily been able to predict at the end of  
17 January.

18 LEGISLATOR MUSCARELLA: Okay. I  
19 would like to be able to accept that answer.

20 Does the minority have any other  
21 questions with respect to these issues?  
22 Minority have any questions with respect to  
23 these? Before we allow them to go on with the  
24 presentation any other questions with respect  
25 to Restivo?



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2                   LEGISLATOR ABRAHAMS:       I was  
3   saying my questions are more tied into the tax  
4   cert liability and eventually I want to jump  
5   into the revenue. I don't have any other  
6   questions.

7                   LEGISLATOR MUSCARELLA:     Can we  
8   ask you to proceed with your presentation?

9                   MR. PAGE:       So, I would say that  
10   the major problems that we're facing as a  
11   budget matter for '18 and going forward are  
12   the tax claims liability backlog. As of the  
13   end of 2016 and the audited financials for  
14   2016 the estimated value of that was I think  
15   about \$340 million owing. As of the end of  
16   '17, on the tentative numbers that we have  
17   right now, it's something over \$500 million.  
18   The increase has to do with LIPA and the  
19   estimate of what their claim for tax  
20   overpayments is worth.

21                  Since the end of the year, which is  
22   the time of that estimate, we've had a number  
23   of conversations with LIPA. I think that's  
24   there's an excellent chance that we will end  
25   up with a settlement with them that will

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2       require a step down in their taxable assessed  
3       value going forward but will not actually  
4       require to us pay the 200 some odd million  
5       dollars of back claim if we had ended up in  
6       litigation we thought we were very likely to  
7       lose on.

8           That gets us back into sort of 300,  
9       \$350 million of cert claims. Not all of those  
10      are due at this moment. But there's a  
11      substantial amount of that and the county  
12      attorney's office is here and available for  
13      questions. Perhaps after me if I can get  
14      through this.

15           But it's unfortunate that we are in  
16      a position where basically the cert bar has  
17      pretty much control over when the bill comes  
18      due as a judgement that the county owes to the  
19      scale of, I mean, currently probably well over  
20      \$100 million and over time something that goes  
21      up toward that 300 number. It's hard to know  
22      exactly how much and when that will land.  
23      It's an accountant's estimate of ultimately  
24      what we will owe on those claims.

25           And we talked a little bit about

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2   the perfect accuracy of numbers that come out  
3   of that. But we talked about the use of fund  
4   balance in 2017. It's maneuverability going  
5   forward. I think it's notable that in '17 the  
6   county paid just under \$90 million in terms of  
7   tax claims. In '18 we appropriated \$30  
8   million for those claims. And '18 is the  
9   second year of DAF. And in '17, at the end of  
10   '17, that account had \$96 million in it. At  
11   the end of '18 we expect it will have had  
12   deposits that put it a little over \$200  
13   million.

14                   And how much can we actually pay  
15   out from that fund in addition to the \$30  
16   million we've appropriated? Well, the way DAF  
17   works, as enacted by New York State, is  
18   difficult to access. The fact that it's in  
19   separate accounts for each property, and I've  
20   probably been through this and try not to bore  
21   you forever on it, but there's a separate  
22   account for each property with an amount of  
23   money in it. When that property comes through  
24   with a settled claim amount for the year that  
25   that account number corresponds to, you should

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2     be able to match them up. If there's the  
3     right number coincidentally in their account  
4     that's nice. If the number is too small in  
5     the account the county has to add to get up to  
6     that year's claim to make it work. If there's  
7     too much money in the account for that year  
8     the money is actually distributed among the  
9     tax jurisdictions in the county. It's not  
10    kept available for more claims. It actually  
11    goes away. A small portion of it to the  
12    county and the rest to the school districts  
13    and everybody else. We would hope to get  
14    state legislation, which, quite honestly, made  
15    it easier to access those funds.

16           At the moment our estimate is  
17    probably about \$40 million of claims that  
18    we're likely to receive by the end of '18 that  
19    we will be able to pay out of the balance in  
20    the fund. That would bring our 30 to 70 as  
21    compared to last year's 90. It's not on a  
22    scale to address this 350 of back claims that  
23    we're talking about. We're looking at, if we  
24    were really going to lock in how we're going  
25    to pay that back claim it is debt

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2    restructuring.  Maybe there's a transaction  
3    related to the sewer system.  Maybe at the end  
4    of the day it's more cert bonds.  Particularly  
5    the last one.  Well, the debt restructuring  
6    and certainly the cert bonds and I guess the  
7    sewer system as well requires NIFA and  
8    requires this body obviously as how best to  
9    solve it.

10                   I mean, in a perfect world somehow  
11   I guess we would find available current  
12   resources that we could afford to pay these  
13   claims out of as we went along, because then  
14   we wouldn't be faced with in the future paying  
15   the cost of whatever we've done to defer that  
16   payment.  How this works I think remains an  
17   ongoing question for us.

18                   The next one I think we've  
19   basically talked about.  It's our --

20                   LEGISLATOR MUSCARELLA:     If I  
21   might interrupt you.  Mr. Kopel has a specific  
22   question with respect to that.

23                   LEGISLATOR KOPEL:       One thing that  
24   you mentioned particularly caught my ear.  If  
25   indeed what you're saying with LIPA is the

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2       case that's good on a long-term basis of  
3       course because we don't have to borrow to pay  
4       that back or make any other adjustments. It  
5       will in essence result in a lot of taxes going  
6       up for everyone else because the tax rate will  
7       bump necessarily, won't it? Where is the  
8       revenue going to come from to make that up?  
9       Will it stay in the same class? This bumps up  
10      and then there's a wash?

11               MR. PAGE:     To the extent the  
12      property -- basically there are two generating  
13      plants that LIPA has in Nassau County. To the  
14      extent when you revise the assessment they  
15      stay in class three. What happens is -- and  
16      they go down -- what happens is the rest of  
17      class three goes up. That's the utility  
18      class. What you're talking about is water,  
19      Verizon, things of that kind.

20               LEGISLATOR KOPEL:     There's a  
21      significant bump in the rate for that class.

22               MR. PAGE:     Yes. One sort of  
23      ambiguity in this whole enterprise, and the  
24      county attorney's office is better able to  
25      describe than I am, because of changes in

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2    their facilities some of that property is  
3    likely to move from class three to class  
4    four. How that plays through is I guess  
5    complicated is the best I am able to say about  
6    it.

7           LEGISLATOR KOPEL:     Basically it's  
8    not going to result in any impact on other  
9    businesses or homeowners? It shouldn't. A  
10   good impact actually it should have because we  
11   don't have to borrow.

12          MR. PAGE:     Yes. The settlement  
13   definitely is good because you don't have to  
14   borrow for 200 some odd million dollars and  
15   then pay it back. That's good.

16          The thing that's not so good in  
17   prospect is that, particularly for the school  
18   district county wide, I mean, I'm not sure it  
19   makes a lot of difference in terms of the  
20   revenue you end up with, but for the specific  
21   school district where this commercial property  
22   existed, what happens is that if you lose a  
23   chunk of tax revenue --

24          LEGISLATOR KOPEL:     If it's a  
25   small district it's a disaster.

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2                   MR. PAGE:       It shifts the burden  
3       to the residents in that district. That's  
4       what the phase down does in that district.

5                   LEGISLATOR KOPEL:       Gives them a  
6       time to adjust.

7                   MR. PAGE:       Yes. But they're  
8       probably not happy with the adjustment.

9                   LEGISLATOR KOPEL:       Clearly. The  
10      DAF restructuring that you propose you're  
11      going to need a home rule on that?

12                  MR. PAGE:       I don't even know the  
13      answer. Because the restructuring --

14                  LEGISLATOR KOPEL:       In other  
15      words, we would all love to see it before it's  
16      submitted to the state so we can better  
17      understand it. That would be appreciated.

18                  MR. PAGE:       I hear you.

19                  LEGISLATOR KOPEL:       If would be  
20      good towards transparency.

21                  MR. PAGE:       The question of the  
22      home rule message is, as you're probably  
23      aware, what dictates whether you need a home  
24      rule message is basically whether the state  
25      legislature decides you need a home rule



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2   message.

3                   LEGISLATOR KOPEL:     Either way you  
4   can undoubtedly let us know and give us chance  
5   to look at that and comment on it before it  
6   goes. Whether it requires that or not, a home  
7   rule message, and we think you should. At  
8   least I do.

9                   The restructuring that you're  
10   talking about, you're talking about a stretch  
11   out essentially?

12                  MR. PAGE:     Yes. In essence.  
13   It's a restructuring. It's not a refunding  
14   for savings. For present value savings. It  
15   would be -- one possibility would be to take  
16   the debt payment structure on bonds already  
17   outstanding to pay for tax overpayments which  
18   have a sort of height now and dwindle down to  
19   2043. And to refinance that debt so that it  
20   was a flat number every year from now out to  
21   2043. And what that does is to give you  
22   savings up front and expenses in the back.

23                  LEGISLATOR KOPEL:     I get that.  
24   It's front loaded. Now you want to smooth it.

25                  MR. PAGE:     That would be one sort

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2       of mechanical way to do it. Another  
3       mechanical way to do it would be to simply  
4       issue bonds in the amount you needed. Either  
5       of these transactions that are going to  
6       require NIFA.

7           LEGISLATOR KOPEL:     And entail a  
8       rate increase almost certainly at this point.

9           MR. PAGE:     A rate increase in  
10      terms of the interest rate required?

11          LEGISLATOR KOPEL:     Yeah. I would  
12      imagine.

13          MR. PAGE:     Yeah, maybe. I don't  
14      think at this moment a tremendously large one,  
15      but yes, there's no savings in it per se.

16          LEGISLATOR KOPEL:     I get that.

17          MR. PAGE:     The water question is,  
18      as you are very aware, the operation of the  
19      sewer system is now being carried out by Suez  
20      in a relationship that's been negotiated with  
21      a lot of substance over a period of time.  
22      This would be a possible transfer of title to  
23      the sewer system for --

24          LEGISLATOR KOPEL:     I want to get  
25      into that as well. This was brought up by the

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2   previous administration as you undoubtedly  
3   know. At that time there were a number of  
4   objections. It's very hard to understand how  
5   this could be anything but borrowing again.  
6   Because essentially the most efficient way for  
7   municipal finance is regarded as a municipal  
8   borrowing. Now, we would be in essence  
9   substituting private borrowing, which is going  
10   to be more expensive, A, and B, we're going to  
11   add a profit component to that which any  
12   private lender, private purchaser will require  
13   over and above it's borrowing costs.

14               And C, coming from A and B, it  
15   seems inescapable you're going to have a  
16   significant rate increase on the sewers  
17   because of that. That might all make sense if  
18   you take that money and used it to save money  
19   elsewhere. It's pretty complex.

20               In other words, if you're going to  
21   take that money and overall refinance  
22   something else and knock out interest cost  
23   somehow, or use it to settle cert debt or  
24   whatever it is that may carry a higher rate  
25   that might make sense. But if you do go down

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2       this road I think we're going to need and hope  
3       to have any success we're going to need a lot  
4       of advance notice and explanation.

5                   MR. PAGE:       I certainly hear that  
6       and I share your concern about the cost of  
7       money that would be in a transaction of that  
8       kind. It is technically the sale of an  
9       asset. The proceeds of an asset sale are  
10      technically a current revenue. The proceeds  
11      of bonds, at least according to NIFA, are not  
12      a current revenue. How that all plays through  
13      I don't know.

14                  LEGISLATOR KOPEL:       Once the new  
15      owner has it they need to pay their costs to  
16      make a profit. What is the current profit for  
17      a P3 buyer? What are they looking at? You're  
18      probably looking closer to ten or 12 percent  
19      or maybe more. I hope you understand how that  
20      works.

21                  MR. PAGE:       Or maybe it's too  
22      easy.

23                  LEGISLATOR KOPEL:       It's a facile  
24      type of thing but it's got to make sense at  
25      the end of the day.

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2 MR. PAGE: I agree.

3 LEGISLATOR KOPEL: Thanks.

4 MR. PAGE: I think that the  
5 screen that's in front of you basically  
6 talking about the various sources that we were  
7 able to identify, which we think are real,  
8 which gave us more resources between a sort of  
9 having inherited a budget situation in January  
10 and having spent a pretty intense number of  
11 weeks talking to agencies and looking at our  
12 assumptions between then and mid March. That  
13 included a number of revenues. Some of them,  
14 as we've discussed, requiring your approval.  
15 Some of them not. I don't know if it's worth  
16 my taking your time to go through each one. I  
17 would be happy to respond to questions now or  
18 in whatever form you're interested in.

19 LEGISLATOR MUSCARELLA: I  
20 apologize. What i prefer to do from this  
21 point forward, even though I haven't lived up  
22 to it, is let you continue and finish your  
23 presentation and then we will have questions  
24 afterwards.

25 MR. PAGE: Finish my presentation

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2       and be quiet for a few minutes. I get it.

3           This one is basically looking at  
4       what's actually happened in terms of -- one of  
5       the problems when you're doing budget work is  
6       that you don't have information that's up to  
7       date when you're doing it even. Obviously for  
8       March you have better information than you do  
9       on the first of January. But information  
10      gradually catches up with you as you go  
11      along. We now have information through  
12      February, which has informed projections as of  
13      the end of March for us as a practical  
14      matter.

15           What this, in rather small print,  
16      is tracing is that our actual experience since  
17      the information and assumptions underlying  
18      March 15th has actually been a little bit  
19      better in terms of the prospect for balance  
20      for this year for the county than we were  
21      relying on when we did the March update.

22           This talks about the fact that  
23      basically the economy in the county is doing  
24      pretty well. I think that the proportion of  
25      revenues and expenses is kind of interesting

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2   to look at but there's no startling news in  
3   it. No really major changes in that.

4           It's worth noting as we go along  
5   one of the basic good things going on in the  
6   county is that actually the number of jobs has  
7   been going up. That, as I think I mentioned  
8   earlier, has actually brought down the number  
9   of people applying for and getting benefits  
10   and needing benefits from the county.

11           Home value is going up. The fact  
12   that the stock market is doing all right, not  
13   withstanding some wobbling, is helpful to us  
14   because it's helpful to I guess the wealth in  
15   the county as a practical matter.

16           The ongoing number of building  
17   permits for reflecting development in the  
18   county has been doing well and continues to be  
19   doing so.

20           I guess that's about it on my  
21   presentation. Happy to answer questions now  
22   or later. However you want to do this.

23           LEGISLATOR MUSCARELLA:     Do we  
24   have any questions? Mr. Nicoletto.

25           LEGISLATOR NICOLELLO:     The

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2       county's financial system shows there's a  
3       deficit of \$1.4 million PILOT revenue for  
4       2017. Do you know why that is?

5                   MR. PERSICH:       We had a little bit  
6       of an issue when we were doing the PILOTS in  
7       '17 and when we were accounting for it in the  
8       '17 numbers we realized that we had a  
9       shortfall in PILOT revenue. Which is an  
10      offset to what the revenue stream would have  
11      been. The calculation was initially done,  
12      it's a very complex calculation that we have  
13      now automated, which we are working with IT to  
14      make this not a spreadsheet type of thing  
15      which we've experienced in the past here. So  
16      we kind of automated the system and I think  
17      going forward we will more, better accurate,  
18      solid numbers.

19                  LEGISLATOR NICOLELLO:       Aren't  
20      PILOTS a fixed number though?

21                  MR. PERSICH:       They could vary  
22      based on assessments. Some assessment-based  
23      PILOTS we're trying to get away from those  
24      structures and we've told the IDA to do a  
25      fixed contractual now so we don't have these



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2    issues going forward.

3           MR. PAGE:       It would be a huge  
4    improvement to have a contract with numbers in  
5    it as opposed to having variables going back  
6    to the taxable value which brings in all the  
7    problems we experienced in doing that.

8           LEGISLATOR NICOLELLO:    The  
9    comptroller indicates that the federal  
10   transportation aid was not received in 2017.  
11   Is that accurate?

12          MR. PERSICH:       That's to do with  
13   the Transdev budget. We are anticipating  
14   getting the grant money in. It's a question  
15   of the timing of it and when we are going to  
16   receive it. Still be '17 money but be  
17   accounted for in '18. We will pick up the  
18   revenue in '18. But for accounting purposes  
19   we have to not recognize it in '17.

20          LEGISLATOR NICOLELLO:    It gets  
21   recognized in '17 eventually?

22          MR. PERSICH:       Eventually. But it  
23   will be an '18 item.

24          LEGISLATOR NICOLELLO:    In terms  
25   of the OTB revenues, they've indicating

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2       they're going to be paying the county in the  
3       order of \$3 million in May of 2017. Does that  
4       get, assuming that comes in and there's a good  
5       assumption, is that going to apply to '17 or  
6       '18?

7                   MR. PERSICH:       It will apply to  
8       '18. We will take the write-down in '17 but  
9       pick it up in '18. I'll let the comptroller's  
10      office talk to that. It's about  
11      collectability and availability. It's one of  
12      those accounting treatments for these things  
13      when it becomes collectable and available. We  
14      have had extensive discussions on it.

15                  LEGISLATOR NICOLELLO:       With  
16      respect to the property tax collections, I  
17      understand there's a little bit of variance  
18      this year. My understanding in the past it's  
19      met or exceeded expectations. But now there's  
20      a negative number.

21                  MR. PERSICH:       In '17 or '18?

22                  LEGISLATOR NICOLELLO:       '17.

23                  MR. PERSICH:       Probably to do with  
24      the PILOT issues and abatements too.

25                  LEGISLATOR NICOLELLO:       That's all

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2     I have for now.

3                   LEGISLATOR MUSCARELLA:

4     Mr. Kopel.

5                   LEGISLATOR KOPEL:     Thank you.

6     Before I ask anything I want to know are you  
7     still having fun in the job?

8                   MR. PAGE:     Are you talking to  
9     me?   Sometimes.

10                  LEGISLATOR KOPEL:     Today maybe  
11     not so much.   I only have a few more.   The DSS  
12     case load, those things have you taken into  
13     account the fact that the reimbursement will  
14     fall off as well?

15                  MR. PERSICH:     We have accounted  
16     for that.   Offset in state aid.

17                  LEGISLATOR KOPEL:     As well as the  
18     same kind of question when you mentioned the  
19     new revenues are those full year numbers or  
20     just balance of '18 numbers?

21                  MR. PERSICH:     Balance of '18  
22     numbers.   We can get it in quicker the better  
23     we account for that.

24                  LEGISLATOR KOPEL:     '19 will  
25     presumably, if those things go through,

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2   they're considerably more?

3                   MR. PERSICH:       Yes.

4                   LEGISLATOR KOPEL:     The one-shots  
5   that you got there, sales of property and so  
6   forth, wasn't the indication that NIFA won't  
7   go for that in terms of our budget?

8                   MR. PAGE:       They haven't said that  
9   to us. I mean, their reaction to this  
10   proposal in mid March was basically they  
11   didn't take explicit action to approve it or  
12   any sort of thing of that kind but they also  
13   didn't say it was bad. They have not  
14   complained to us about the use of property  
15   sales. A big piece of that is actually  
16   selling title to ground leases on a couple of  
17   buildings that --

18                  LEGISLATOR KOPEL:     You want to  
19   sell the ground lease rather than the actual  
20   property?

21                  MR. PAGE:       The property is  
22   already owned by a developer and built and  
23   occupied.

24                  LEGISLATOR KOPEL:     We have  
25   long-term ground leases that we would sell?

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2 MR. PAGE: Yes.

3 LEGISLATOR KOPEL: I guess it's  
4 if not long term you're not going to sell?  
5 You can't sell it.

6 MR. PAGE: Yeah. It's got to be  
7 long term or you wouldn't have built a  
8 building on it otherwise.

9 LEGISLATOR KOPEL: Could have  
10 been long term when they built the building.  
11 Doesn't mean it's long term now.

12 MR. PAGE: It's still pretty long  
13 term. I think what happens is if you build a  
14 building and it works out and it's occupied  
15 and you're making money, that you're  
16 interested in locking in the ground because  
17 eventually what happens is that it could be  
18 far out but when you're trying to refinance  
19 something you begin to knock into the  
20 refinancing assurance that you have if you're  
21 getting towards the end --

22 LEGISLATOR KOPEL: In other  
23 words, these are surplus properties as far as  
24 we're concerned?

25 MR. PAGE: The properties aren't

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2   ours.

3           LEGISLATOR KOPEL:     No, no. These  
4   are ours. We're paying rent on it. We're  
5   paying rent on the ground lease.

6           MR. PAGE:     We are receiving rent  
7   on the ground lease.

8           LEGISLATOR KOPEL:     You're also  
9   paying rent to the owner of the property?

10          MR. PAGE:     We're not using those  
11   properties. They're actually private  
12   development.

13          LEGISLATOR KOPEL:     We don't own  
14   the ground?

15          MR. PAGE:     We do own the ground  
16   but it's a matter of private development on  
17   ground we own.

18          LEGISLATOR KOPEL:     Now I got it.  
19   The value of the ground lease is not going to  
20   depreciate. It will appreciate as time goes  
21   on, because you're getting closer to selling  
22   the fee ownership in essence. Okay. How many  
23   properties are there like that?

24          MR. PAGE:     I think a couple.

25          LEGISLATOR KOPEL:     Thank you.

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2 LEGISLATOR MUSCARELLA:

3 Mr. Abrahams.

4 LEGISLATOR ABRAHAMS: Thank you  
5 Chairman. Just to piggyback real quick on  
6 Legislator Kopel's questions as it pertains to  
7 the ground leases in certain buildings. This  
8 number was calculated, this \$5.3 million, was  
9 calculated based off of I guess properties  
10 that you have identified that you would look  
11 to sell ground leases. Do you have a list of  
12 these properties?

13 MR. PERSICH: We have a list but  
14 we're trying to keep them confidential because  
15 there's a negotiated sale right now.

16 MR. PAGE: The list doesn't add  
17 up to this number. If a substantial amount of  
18 it works you get there. The difficulty with  
19 an exact number is that you end up laying out  
20 your side of what's an ongoing negotiation  
21 which you don't actually want to do if you can  
22 help it.

23 LEGISLATOR ABRAHAMS: I get  
24 that. I guess I'm not asking for what the  
25 county is looking for. I guess I'm asking for

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2    if it could be done in a confidential memo.  
3    Because obviously the legislature has to  
4    approve the sale of the properties. So,  
5    before we get to the point where we are  
6    considering properties or ground leases for  
7    sale and potentially the legislature accepting  
8    or rejecting them, I would think maybe a  
9    conversation would take place in terms of  
10   furnishing a list. Especially when it  
11   pertains to \$5.3 million in revenue.

12               I want to focus a little bit more  
13   on establishing a framework for the tax cert  
14   liability. I heard earlier that the  
15   approximate number, including LIPA, was over  
16   \$500 million. The comptroller's fact sheet  
17   identifies it as \$560 million. You talked a  
18   little bit earlier about there being money set  
19   aside. I want to make sure I understand the  
20   DAF money that's set aside to pay towards the  
21   560 in liability, or is there DAF money set  
22   aside to pay for the tax cert?

23               MR. PAGE:     The 500 sum is as of  
24   the end of '17. The fact is there's a flow of  
25   claims coming in all the time. Which is kind



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2   of somewhere between, generally somewhere  
3   between 75 and 100. So, you need to deal with  
4   a backlog. You also need to deal with the  
5   current flow. Generally when we have  
6   resources we try to pay the oldest first. But  
7   if you were really going to try to -- I guess  
8   if you got to clean up the backlog that would  
9   be cleaning up the old stuff and then you need  
10  to be covering the new as well.

11           DAF is intended to cover the kind  
12  of current flow. It didn't start until '17.  
13  So it's got one year done. '18 is its second  
14  year. The county didn't manage to pay  
15  anything out of its balance in '17.

16           On the other hand, claims don't  
17  sort of ripen very fast. The biggest source  
18  of claims, 80 some percent of the claims,  
19  relate to class four. If they're relating to  
20  the '17 year, which would be the first year of  
21  this, how soon do they get final so that you  
22  actually have a fix number to pay? Well, some  
23  of them now I imagine and going forward, and  
24  as I say, the estimate I managed to get out of  
25  this enterprise so far as to what of '17 and

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2     '18 we could pay out of the DAF by the end of  
3     '18 is about \$40 million. I would very much  
4     hope that we could do better than that. But I  
5     haven't got the track to it at the moment.

6           LEGISLATOR ABRAHAMS:     That kind  
7     of leads me into my second question, the total  
8     outstanding tax cert liability that has been  
9     reduced to judgement and settlement to date.  
10    Obviously we're talking the old versus the  
11    new.

12           MR. PAGE:     You should get the  
13    county attorney's office to answer that  
14    question. My understanding is it's something  
15    over 100 right now. That's pretty much at the  
16    discretion of the cert bar to -- as a  
17    judgement owing.

18           LEGISLATOR ABRAHAMS:     Counsel  
19    just advised me that I guess the county  
20    attorney, if that's okay Chairman, the county  
21    attorney's office. After we finish with  
22    Mr. Page that we can bring the county attorney  
23    up to talk about it. I don't know if it's  
24    best that I ask the remaining questions in  
25    regards to the acceleration of payment of the

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2       outstanding cert judgements. Should I be  
3       asking them to the county attorney's office?

4           LEGISLATOR MUSCARELLA:       If we  
5       could why don't we ask the county attorney to  
6       come up and sit now.

7           LEGISLATOR ABRAHAMS:       I know  
8       Legislator Birnbaum also has question directed  
9       to Mr. Page. Can she jump in and I will pick  
10      up?

11          LEGISLATOR MUSCARELLA:       Sure.

12          LEGISLATOR BIRNBAUM:       My  
13      questions are about the new revenue sources  
14      and a lot of them have to do with fines and  
15      increased fees et cetera. Given that it's  
16      almost the end of April, when would the  
17      legislature start seeing such proposals? And  
18      how soon would they be enforced to even get  
19      these numbers by the end of 2018?

20          MR. PAGE:       I think that the piece  
21      of it that requires legislative approval --

22          MR. PERSICH:       I think we are  
23      planning to get something to you for the May  
24      meeting.

25          MR. PAGE:       Otherwise a lot of it

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2   has to do with authorized parks fees and some  
3   of that is actually just implementing fees  
4   that the legislature has already authorized in  
5   a kind of multiyear program in 2016.

6           LEGISLATOR BIRNBAUM:     Because I  
7   see over \$21 million is from increased  
8   revenues and over \$9 million you say would be  
9   with fees dealing with our approval?

10          MR. PERSICH:     That is correct.

11          MR. PAGE:     We think that the  
12   remaining 12 I guess is okay, notwithstanding  
13   that we're obviously part way through the year  
14   right now and that process is ongoing right at  
15   this moment in terms of adjusting fees.

16          LEGISLATOR MUSCARELLA:

17   Mr. Abrahams.

18          LEGISLATOR ABRAHAMS:     Just one  
19   question quickly regarding the longevity.  
20   There's been a lot of discussion about the  
21   longevity back and forth, and I'm not asking  
22   you to opine on the litigation that's going  
23   on. I just wanted to actually focus on the  
24   actual budget for the longevity. There is  
25   money that's been appropriated in the budget

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2   for longevity for 2018?

3           MR. PAGE:       No.

4           LEGISLATOR ABRAHAMS:     There has  
5   not been. The previous administration has not  
6   budgeted that money?

7           MR. PAGE:       Correct.

8           LEGISLATOR ABRAHAMS:     I guess you  
9   don't want to get into the amounts because all  
10   that's going to be in the future. Okay.  
11   Thank you.

12          LEGISLATOR MUSCARELLA:     Before we  
13   get the county attorney I have a couple of  
14   quick questions with respect to how we are  
15   managing overtime. Do we know the end of year  
16   overtime expenses for 2017? I guess with  
17   respect to the police department and the  
18   correction center.

19          MR. PERSICH:       I don't have them  
20   at my disposal. We will be coming to you in  
21   May with the year-end board transfers, which  
22   will cover all this, which is that very long  
23   extensive one we do with the comptroller's  
24   office. That will have the final numbers on  
25   there.

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2 LEGISLATOR MUSCARELLA: If we  
3 have the final numbers compared to what the  
4 budget projected that's fine.

5 Yearly the police department  
6 charges some of its overtime to the grant  
7 fund. If you can give us those numbers.

8 MR. PERSICH: Definitely. I met  
9 with them this morning. They're going to do  
10 them on a quarterly basis, what we're hoping  
11 for, so we can do the charge-backs to certain  
12 grants, asset forfeiture et cetera. That will  
13 be included in that too.

14 LEGISLATOR MUSCARELLA: Thank  
15 you. Mr. Nicoletto.

16 LEGISLATOR NICOLELLO: One  
17 follow-up in one other area. With respect to  
18 your budget modification, my understanding is  
19 that NIFA found substantial compliance. That  
20 it was in substantial compliance with whatever  
21 their dictates in terms of what the  
22 administration was required to submit. Is  
23 that your understanding?

24 MR. PAGE: Yes. I think so.

25 LEGISLATOR NICOLELLO: Did they

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2       explain what substantial compliance means?

3       I'm a lawyer. That seems like something we  
4       would come up with. They've determined there  
5       was substantial compliance notwithstanding  
6       part of the revenues were from the sale of  
7       property, correct?

8           MR. PAGE:     Yes. I think I may  
9       find myself slapped down, but I think they're  
10      okay with the volume of sale of property that  
11      we're talking about. We have tried not to be  
12      identifying property that's substantial and  
13      there would be controversy about what the  
14      county should otherwise be using the property  
15      for. It's more a question of I spoke about  
16      the ground leases but otherwise -- obviously  
17      the county's workforce is substantially less  
18      than it's been in the past. There are a  
19      number of buildings that are not fully  
20      occupied and they tend not to be in decent  
21      shape or that they actually be empty. They  
22      cost us a lot of money in terms of protecting  
23      them, heating them, repairs that we don't  
24      manage to do. So it's not just that you get a  
25      one shot proceeds of sale. It's that you

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2   ought to actually get an ongoing savings in  
3   more efficiently housing your workforce and  
4   fully occupying the buildings that you keep so  
5   that those are the only ones you have to  
6   maintain.

7           LEGISLATOR NICOLELLO:     Did they  
8   indicate that the sale of property was at  
9   risk?

10          MR. PERSICH:     They risk a lot of  
11   things just so you know. I don't have a  
12   specific risk from them as far as the sale of  
13   property. Every year we put a number in the  
14   budget. Every year they risk it because it's  
15   ongoing. We do have property sales that make  
16   sense some times. Like slivers of property  
17   and everything that would make sense that we  
18   do currently negotiate and get rid of. They  
19   didn't specifically give me the risk.  
20   Sometimes they risk a lot of it.

21          LEGISLATOR NICOLELLO:     That was  
22   the point I was getting at which was last year  
23   if we attempted to put into the budget sales  
24   of property they would risk it. They also in  
25   terms of fees they found substantial



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2       compliance notwithstanding these supposed fee  
3       increases were not even submitted to the  
4       legislature yet.

5                   MR. PAGE:       I hesitate to bring  
6       this up but I think we bought ourselves --  
7       they noted to our credit that we managed to  
8       pay for Restivo. Which I think actually, I  
9       guess this is speculation on my part, I think  
10      it bought some tolerance for other pieces of  
11      this budget plan for whatever that's worth.

12                  LEGISLATOR MUSCARELLA:       We call  
13      that good will.

14                  LEGISLATOR NICOLELLO:       They seem  
15      to have more tolerance than they've had in the  
16      past. Whereas, they would not even credit  
17      proposed fee increases until such time as the  
18      legislature actually approved them. They're  
19      now finding substantial compliance with  
20      proposed fee increases. While in the past  
21      they wouldn't credit fee increases unless they  
22      were fully approved. I think you are dealing  
23      with a kinder, gentler NIFA than we did.

24                  MR. PAGE:       I hope that's true.  
25      But I suspect it has more to do with the fact

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2    things have actually been going well over time  
3    so that the assumptions are less stressed now  
4    than they were when we put March 15th together  
5    in terms of the sales tax is coming in and  
6    other things are going okay.

7           LEGISLATOR NICOLELLO:     I think  
8    our experience was different because as the  
9    structural deficit dropped every year they  
10   actually became stricter and more less  
11   flexible for us. Again, it seems like they've  
12   changed.

13           MR. PAGE:     For whatever reason.

14           LEGISLATOR NICOLELLO:     Thank  
15   you.

16           LEGISLATOR MUSCARELLA:  
17   Mr. Abrahams. I understand Mr. Abrahams had  
18   questions of the county attorney.

19           Is there anything else that you  
20   would like to say in summing up or anything?  
21   It's not necessary. I'm just asking if  
22   there's something you would like to add?

23           MR. PAGE:     I think we've said  
24   what we have to say. I think, again, I  
25   appreciate the opportunity to at least attempt

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2   to answer your questions and look forward to  
3   the same going forward. Thank you.

4           LEGISLATOR MUSCARELLA:     Thank  
5   you. We're going to deviate for a short  
6   period of time from the agenda and ask the  
7   county attorney's office to come up.  
8   Mr. Abrahams had some questions.  
9   Mr. Abrahams.

10           LEGISLATOR ABRAHAMS:     Thank you  
11   Chairman. I guess my questions started out  
12   and just to recap my first one to make sure  
13   we're getting the most accurate numbers for  
14   the record. I was asking earlier --

15           LEGISLATOR MUSCARELLA:     If I may,  
16   could you just identify yourselves.

17           MR. DENION:     Conal Denion, county  
18   attorney's office.

19           MS. BARRIGA:     Ann Margaret  
20   Barriga, county attorney's office.

21           LEGISLATOR ABRAHAMS:     Thank you.  
22   We were talking a little bit in regards to the  
23   total amount of the owing tax cert liabilities  
24   that have been reduced to a judgement or  
25   settlement to date. I think Mr. Page had

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2       mentioned it's still over 100 but if you have  
3       more exact numbers that would be helpful.

4                   MR. DENION:       The way I would  
5       describe it is that in the last year the tax  
6       cert lawyers, the commercial tax cert lawyers,  
7       have started bringing money judgement actions  
8       or enforcement actions to enforce the terms of  
9       judgments or settlements that are reached  
10      through the Assessment Review Commission for  
11      the county attorney's office. And the reason  
12      that's necessary is that these reductions are  
13      usually just to reduce your assessed value.  
14      And typically that's handled administratively  
15      how much money that costs.

16                   In their view they feel as if they  
17      haven't been paid quickly enough. So they  
18      have brought these money judgement actions to  
19      have a court convert the assessed value  
20      reductions into the dollars.

21                   So in the last year they've brought  
22      a number of these actions. In 2017 we paid  
23      out a number of those so they became moot.  
24      But they did file a number of them late in  
25      2017 and into 2018 and we've put an estimated

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2   liability number on that if they were to be  
3   successful and that number is right now about  
4   \$134.5 million if they were successful in  
5   their money judgement actions.

6           We're still litigating those and  
7   Ann Margaret can speak to where we are on  
8   appeal or not on appeal and how much sets of  
9   cases have been filed. But that's the gross  
10   number \$134.5 million if they were successful  
11   in their money judgement actions.

12           LEGISLATOR ABRAHAMS:     You hit on  
13   something, Conal, that you mentioned. You  
14   said that the tax cert bar is I guess seeking  
15   or more aggressively going after this  
16   accelerated payments more than they have in  
17   the past?

18           MR. DENION:       That's correct.

19           LEGISLATOR ABRAHAMS:     It sounds  
20   like they're also taking some legal steps to  
21   enforce the judgments?

22           MR. DENION:       It's unusual for  
23   them to file money judgement actions compared  
24   to what they did in the past. Sort of in the  
25   past they were patient to make sure that

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2   whatever the county's plan for paying tax cert  
3   was being followed through, whether it was  
4   borrowing or whatever, they generally would  
5   kind of wait and see what money was available  
6   to pay.

7           Last year when there was this  
8   switch from a planned borrowing of the \$60  
9   million to using fund balance of \$60 million  
10   by the prior administration for 2017 that and  
11   a number of other factors resulted in payments  
12   being delayed in 2017. And in their view they  
13   felt that there was a gap in sort of payments  
14   and they started -- a number of the firms  
15   started bringing these actions. So they have  
16   stepped up their enforcement to say county, if  
17   you've got a settlement you've got a  
18   judgement, you have to pay it. We're not  
19   going to wait.

20           LEGISLATOR ABRAHAMS:     I guess  
21   this would be more of a question for finance  
22   but this accelerated process what's the impact  
23   restraint it puts on the budget?

24           MR. DENION:       If they were  
25   successful.

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2 LEGISLATOR ABRAHAMS: Assuming  
3 they were successful.

4 MR. DENION: 134 and a half  
5 million dollars. That I would defer to Mark  
6 or Andrew Margaret on that. Certainly it  
7 would put a strain on the county's ability to  
8 pay under the current budget.

9 LEGISLATOR ABRAHAMS: Mark could  
10 you answer the question in regards to this  
11 potential accelerated process assuming it's  
12 successful has been factored into your  
13 budgets?

14 MR. PAGE: No. That's the 350  
15 give or take I'm talking about that -- I mean,  
16 if we get hit by this or a substantial chunk  
17 of it we don't have this covered right now.  
18 And that's, you know, I don't know, water debt  
19 restructuring, deficit bond, something.  
20 Unless, I don't know what positive could break  
21 that would give us an incremental resource of  
22 that size, I think we have a major problem to  
23 come up with this scale of payment for the  
24 retroactive claims out of current resources.  
25 I'm not a big proponent of

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2    borrowing to pay now and then having to pay  
3    the borrowing. But under certain  
4    circumstances I don't think you have a whole  
5    lot of choice and I'm not sure we have a whole  
6    lot of choice here.

7           LEGISLATOR ABRAHAMS:     So I want  
8    to make sure I get this and put it in  
9    perspective. The 134.5, assuming they are  
10   successful, could be anticipated expense for  
11   tax certiorari liability in 2018?

12          MR. DENION:     Let me address  
13   that. That probably is not 2018 because -- it  
14   depends. It could be but the way litigation  
15   works, and Ann Margaret can talk about we're  
16   going to be filing notices of appeal or have  
17   filed notices of appeal. We will be  
18   continuing to defend ourselves as hard as we  
19   can against these actions. We have a number  
20   of defenses that we are asserting. But that  
21   number, whether it's 2018 or 2019, is out  
22   there. As Mark said, it's part of the 350  
23   anyway. It's going to come due if not now it  
24   will come due probably in 2019.

25          LEGISLATOR ABRAHAMS:     Conal, this



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2       134 as it moves through the different  
3       processes it's judgements though?

4                   MR. DENION:       That's one of the  
5       issues in the litigation whether these are  
6       settlements or they're enforceable judgments.  
7       Whether the ARC settlements are enforceable as  
8       ARC determinations. Those are things we are  
9       litigating.

10                  MR. PAGE:       Even when you get to a  
11       judgement, when you listen on the side to this  
12       process, it takes time before the county is  
13       actually faced with the obligation then to pay  
14       the money. This process that just eats  
15       months, it's a little unclear how many months,  
16       but maybe it takes you into the first half of  
17       '19 instead of '18. Sort of unclear.

18                  LEGISLATOR ABRAHAMS:       But I guess  
19       based on what I'm hearing today also that the  
20       acceleration of the process is allowing these  
21       actual judgments when they get to that point  
22       to come faster than has been anticipated in  
23       the past. Is that a safe assessment that I'm  
24       making?

25                  MR. DENION:       I think that's

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2     right. I think they're being much more  
3     proactive in trying to get paid. What we've  
4     sort of had a much more managed process I  
5     think they are forcing the issue much more.  
6     Maybe Ann Margaret can talk about the number  
7     of cases they're bringing, putting on what's  
8     called the trial calendar if they're not  
9     satisfied that a settlement is forthcoming  
10    that they're really forcing the trial on a tax  
11    cert case. I think that's been an increase as  
12    well.

13                   MS. BARRIGA:     Yes. In February  
14    the tax cert bar put 250 cases on the  
15    appraisal exchange calendar. What that  
16    essentially means is you have to be ready to  
17    file your trial appraisals on that day. Which  
18    are a cost to the county as far as experts and  
19    preparation of the appraisals.

20                   LEGISLATOR ABRAHAMS:     How is that  
21    different from years past?

22                   MS. BARRIGA:     250 cases from one  
23    calendar that were put over to an appraisal  
24    exchange date I don't think has ever happened  
25    before. You might generally have a handful of

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2       cases put on the appraisal exchange calendar  
3       in a given month. But 250 from one calendar  
4       is an exorbitant amount.

5           For instance, this morning in court  
6       there were about 50 cases put over to the  
7       appraisal exchange calendar. Much less than  
8       the 250 from February's calendar but certainly  
9       much more than there has been in the past.  
10      Once they accelerate their case to that final  
11      status of an appraisal exchange, it  
12      essentially means parties have to either come  
13      in, negotiate, settle on the appraisals or go  
14      forward to trial if there are real issues in  
15      the appraisals. That accelerates their  
16      payment because then there is a signed order  
17      that much quicker as opposed to going through  
18      the steps and processes that could potentially  
19      take six months to eight months for signing of  
20      a judgement. A judge would sign it almost  
21      immediately.

22           LEGISLATOR ABRAHAMS:     It sounds  
23      like obviously as you elaborate a little more  
24      on the trend and whether or not the county has  
25      the resources, it sounds, based on Mr. Page's

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2     testimony we do not, I'm curious to hear when  
3     the administration would be able to report  
4     back when you have more concrete numbers as we  
5     go through the year when will they be able to  
6     report back, Mr. Page, in regards to how they  
7     will meet these challenges based off of the  
8     trend we are enduring now and could  
9     conceivably be going through for the next few  
10    months. Sorry to keep bringing you back and  
11    forth.

12                   MR. PAGE:     The county's obligated  
13    to update its financial plan by the end of  
14    June. And that picks up '19, at least on a  
15    preliminary basis, and actually I guess the  
16    three years after that. I would hope we had  
17    something more definitive to say about what  
18    sort of a reasonably serviceable financing  
19    plan would look like for that update. We will  
20    certainly be spending time as we did coming up  
21    to March trying to figure out whether there's  
22    any way of more efficiently providing services  
23    and stretching whatever resources we've got to  
24    see to what degree we might be able to cover  
25    some part of this number. I don't know.

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2                   The other thing that I've not  
3 mentioned up to now is, as you know, we have  
4 all of these open collective bargaining  
5 contracts. It's another piece of this  
6 picture.

7                   LEGISLATOR ABRAHAMS:     And there's  
8 no budget? No money appropriated?

9                   MR. PAGE:       Not at this moment,  
10 no.

11                  LEGISLATOR ABRAHAMS:     Conal,  
12 being that obviously these judgments are very  
13 well being accelerated, and I remember in  
14 years past there has been discussion regarding  
15 concern whether or not the county's assets  
16 could be held and be used to force payment to  
17 be able to get this done. Is that a potential  
18 negative outcome that could happen?

19                  MR. DENION:     I think it's  
20 premature to talk about it. But I think if  
21 they did have enforceable money judgements and  
22 we run out of our appeals they would certainly  
23 probably look to try to enforce in the normal  
24 way that a private party would enforce against  
25 another private party, attaching bank

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2   accounts. They can't attach against county  
3   property. We would raise defenses to their  
4   ability to try to attach against our bank  
5   accounts. But that is certainly something  
6   that would be litigated.

7           LEGISLATOR MUSCARELLA:     Okay.

8   Thank you very much. Next up is the county  
9   comptroller's office. If you would like you  
10   can sit at the table. If you'd like to stand  
11   that's fine too.

12           MS. JAMES:     Shari James, chief  
13   deputy comptroller.

14           Today I'm here to discuss the  
15   fiscal year 2017 preliminary unaudited GAAP  
16   results. The numbers presented are as of  
17   April 15th and do not include various  
18   management and external auditor adjustments  
19   that will impact these numbers at the end.

20           In addition, it is important to  
21   note that pencils are not completely down at  
22   this point. There are still outstanding items  
23   that are being processed related to fiscal  
24   year '17. Final audited results are expected  
25   to be released by mid 2018 and our office

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2       looks forward to speaking with you then.

3           As provided on the fact sheet that  
4       was distributed, the preliminary unaudited  
5       GAAP results for the five primary operating  
6       funds indicate a \$48.9 million deficit for  
7       fiscal year '17. This is primarily attributed  
8       to lower than expected revenues. Even given  
9       the sales tax increase of \$8.9 million.

10           As you see here, the key primary  
11       drivers were the county did not borrow as  
12       budgeted to fund the tax cert liabilities,  
13       which resulted in a \$60 million reduction in  
14       other financing resources.

15           As discussed, the Federal Transit  
16       Authority's monies and the OTB revenues were  
17       not received as well in fiscal year '17.

18           Looking at the financial condition,  
19       preliminary operating results show a negative  
20       unassigned fund balance at fiscal year end  
21       '17, the tax cert liabilities have increased  
22       to about \$560 million at fiscal year '17. And  
23       the deferred pension liability, which is the  
24       amount that's owed to the New York State  
25       Retirement System, is about \$235 million.

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2                   That's pretty much the preliminary  
3 results that we have as of April 15th.

4                   LEGISLATOR MUSCARELLA:

5 Mr. Kopel, I understand you have some  
6 questions.

7                   LEGISLATOR KOPEL:       Good afternoon  
8 Ms. James. That was a terrific speech. Fast,  
9 precise. Just a couple of questions please.  
10 First of all, that 560 cert liability, does  
11 that include LIPA?

12                  MS. JAMES:       It does.

13                  LEGISLATOR KOPEL:       That explains  
14 the differential between the administration  
15 figures and yours.

16                  Trans, you started out saying that  
17 it's a lower than expected revenues. Do you  
18 expect that as a trend that will continue?

19                  MS. JAMES:       We will be able to  
20 look at the budget at the six month mark and  
21 will be able to provide our opinion on that.

22                  LEGISLATOR KOPEL:       Okay. Assess  
23 those?

24                  MS. JAMES:       Yes.

25                  LEGISLATOR KOPEL:       The OTB and



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2       those things they're not received from '17 but  
3       what do you see going forward?

4           MS. JAMES:     As per the  
5       administration, it will be received in fiscal  
6       year '18. We haven't received it due to  
7       what's called the available -- the period of  
8       availability for this year.

9           LEGISLATOR KOPEL:     The same with  
10      the departmental revenues. What do you  
11      foresee as the trend?

12          MS. JAMES:     That we will give our  
13      opinion on the six month mark as well.

14          LEGISLATOR KOPEL:     You were here  
15      before, right?

16          MS. JAMES:     I was.

17          LEGISLATOR KOPEL:     Both the  
18      comptroller's office and the administration  
19      going back a couple of months made a very  
20      forceful presentation case as to why we  
21      absolutely must authorize borrowing in respect  
22      to the Restivo judgement. You probably recall  
23      that.

24          MS. JAMES:     We didn't make a case  
25      for borrowing.

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2 LEGISLATOR KOPEL: You are quite  
3 right. The administration offered an  
4 explanation, and forgive me but at this point  
5 I'm hopeful that we're going to get more  
6 clarity, I just did not understand it, of the  
7 use of the ability to not borrow. There's an  
8 unassigned fund balance which is negative.  
9 That's what you've told us.

10 MS. JAMES: The preliminary  
11 results show that it's going --

12 LEGISLATOR KOPEL: That's what  
13 you said back then and that was the reason, if  
14 I recall, that we could not borrow. We  
15 couldn't use fund balance or any --

16 MS. JAMES: At that point we had  
17 fiscal year-end '16 numbers and the unassigned  
18 was not negative.

19 LEGISLATOR KOPEL: But we were  
20 told when we had that debate as of that time  
21 you were not able to use any fund balance  
22 because you anticipated that it was negative  
23 at that point and certainly not considerably  
24 positive as it might have been at the end of  
25 '16.

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2 MS. JAMES: At the end of '16 it  
3 was 46.8.

4 LEGISLATOR KOPEL: Correct. But  
5 we were told that was no longer available. At  
6 the time of the debate we were told that that  
7 money is no longer available --

8 MS. JAMES: But the  
9 administration didn't borrow for the tax cert  
10 liability. So it has to be funded from a  
11 place.

12 LEGISLATOR KOPEL: That was not  
13 my question. We were told that that place,  
14 where the fund balance was, was no longer  
15 available to be used for that purpose.

16 MS. JAMES: Going back to what  
17 was presented that's not the way it was  
18 presented. It was presented as we have the  
19 numbers at fiscal year end '16. Those were  
20 the most recent audited numbers we had  
21 available. It showed a fund balance,  
22 unassigned fund balance of \$46.8 million and  
23 the Restivo judgement I believe was a little  
24 less than that.

25 LEGISLATOR KOPEL: Was a little

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2     bit less than that, okay. So then in your  
3     view was there at that point proper  
4     representation of the need to borrow?

5                   MS. JAMES:     I don't have an  
6     opinion on that. We presented where we were  
7     at the end of fiscal year '16.

8                   LEGISLATOR KOPEL:     But I think  
9     that the explanation that we heard a little  
10    bit earlier was that there was different ways  
11    of looking at it. Forgive me. I don't mean  
12    to mischaracterize anything. But there were  
13    different ways of looking at it. One way of  
14    looking at it so that we did not have to  
15    borrow. But we would have, nonetheless, we  
16    would have to fill up that hole somewhat later  
17    by the way because the differentiation again  
18    between cash and accrued balances. Am I  
19    misstating that?

20                  MS. JAMES:     I'm unclear about  
21    what you're asking.

22                  LEGISLATOR KOPEL:     I don't blame  
23    you. I'm unclear too. Why I'm unclear is, is  
24    there's a way of looking at this fund balance  
25    as we look at it today that would allow us to

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2   go ahead and use it to fund various  
3   obligations since there is a negative  
4   unassigned balance? Can we use the cash in  
5   that at this point?

6           MS. JAMES:     I think you are  
7   referring to two different things. So, the  
8   unassigned fund balance if it goes negative  
9   then you can't appropriate that or use it to  
10   fund operations.

11           LEGISLATOR KOPEL:     Right.  
12   Nonetheless, are we now using it to fund  
13   operations nonetheless on the theory that we  
14   will fill the hole later?

15           MS. JAMES:     Again, the way the  
16   results are shown right now there's negative  
17   unassigned fund balance so you want to be able  
18   to use that to fund operations.

19           LEGISLATOR KOPEL:     So the answer  
20   is yes to my question. If we're using it  
21   we're not supposed to use it. We're using in  
22   nonetheless?

23           MS. JAMES:     It's negative. So  
24   you can't use a negative.

25           LEGISLATOR KOPEL:     I'll take that

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2       as a yes. Again, I don't want to put words in  
3       your mouth. If I'm saying something wrong let  
4       me know.

5                   I certainly would appreciate an  
6       explanation of how things are being done in  
7       terms of use of monies. Where did that money  
8       come from to pay the Restivo judgement and so  
9       forth? Is it simply a cash flow issue and it  
10      was taken from operating funds and things were  
11      kind of moved around? I'm having some  
12      difficulty understanding what exactly happened  
13      there. And why the need that was originally  
14      perceived to go ahead and borrow is no longer  
15      necessarily a need.

16                  MS. JAMES:       I would leave that to  
17      the administration to discuss that with you.

18                  LEGISLATOR KOPEL:     Hopefully they  
19      will provide that and that's a fair enough  
20      answer. Thank you.

21                  LEGISLATOR MUSCARELLA:  
22      Mr. Nicolello.

23                  LEGISLATOR NICOLELLO:     Just a few  
24      questions. Just to get back to the whole  
25      issue of the projected deficit. Last year you

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2       had an expense related to tax cert liability.

3       It was anticipated or budgeted that that would

4       be filled at least in part by borrowings.

5       When those borrowings didn't happen it was

6       substituted at least in part by expenditures

7       out of fund balance?

8           MS. JAMES:       Correct.

9           LEGISLATOR NICOLELLO:       As a

10       result of that apparently there may have to be

11       additional expenditures out of fund balance to

12       fill the gap completely. Is that true or has

13       it already been paid?

14           MS. JAMES:       These tax cert

15       liabilities have been paid.

16           LEGISLATOR NICOLELLO:       So the

17       difference is and the reason is that gap is

18       that instead of using, as budgeted, the

19       borrowed monies they used fund balance?

20           MS. JAMES:       Yes. The borrowed

21       monies didn't come through as budgeted so the

22       fund balance would be the draw.

23           LEGISLATOR NICOLELLO:       I want to

24       make clear that that is the primary reason

25       there is this large deficit at this point.

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2                   MS. JAMES:       At this point.

3                   LEGISLATOR NICOLELLO:       It's not  
4   as if the administration went out and, putting  
5   aside tax cert liabilities, overspent its  
6   budget by \$50 million on various items. It  
7   simply had this expense was not allowed to use  
8   borrowing and wound up using fund balance.

9                   MS. JAMES:       There are other  
10   factors that were included in the deficit  
11   number but this was the primary driver and  
12   wanted to give very high level overview at  
13   this point in time as the numbers are not  
14   final. Once they are final we are going to  
15   discuss those with you and the different  
16   moving factors that are included.

17                  LEGISLATOR NICOLELLO:       I don't  
18   know if you can answer this question.  
19   Assuming that, as it was the case, that they  
20   weren't permitted to do the borrowing, could  
21   you identify anywhere else in the budget that  
22   they could have possibly located tens of  
23   millions of dollars to pay the tax certs?

24                  MS. JAMES:       At this point in time  
25   I don't have the answer to that.



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2 LEGISLATOR MUSCARELLA: Ms.

3 Birnbaum.

4 LEGISLATOR BIRNBAUM: One of the  
5 key primary drivers that you outlined was  
6 departmental revenues. They were lower. I  
7 know you said you're going to have a more  
8 thorough report after the six month mark. But  
9 was it one department or a combination of many  
10 departments that resulted in that 6.6 million  
11 lower than budgeted?

12 MS. JAMES: It was a combination  
13 of many different departments.

14 LEGISLATOR BIRNBAUM: You'll have  
15 a report soon?

16 MS. JAMES: When the numbers are  
17 final we will issue a report and have all that  
18 information available.

19 LEGISLATOR BIRNBAUM: The Off  
20 Track Betting money I know that we said we  
21 didn't get in 2017. Do you have a reason why  
22 the county was unable to collect it?

23 MS. JAMES: I don't know. The  
24 comptroller's office doesn't collect that  
25 revenue.

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2 LEGISLATOR BIRNBAUM: I just  
3 wondered. We keep saying it will be put in in  
4 2018. How do we know for sure we're getting  
5 it this year?

6 MS. JAMES: That I don't. I'm  
7 sorry.

8 LEGISLATOR MUSCARELLA:  
9 Mr. Abrahams.

10 LEGISLATOR ABRAHAMS: Quick  
11 question. During the end of Mr. Page's  
12 testimony he had indicated that there's no  
13 funding in the budget for the future CBAs as  
14 well as the longevity pay. And obviously  
15 Mr. Denion also indicated in regards to the  
16 accelerated tax cert liability and what's  
17 going on with some of the tax cert bar that's  
18 also the case.

19 I wanted to ask you whether or not  
20 you concurred with their assessments in  
21 regards to those unfunded liabilities or  
22 concerns? And then also ask you in regards to  
23 the pension cost, has that been properly  
24 funded as well?

25 MS. JAMES: In regards to the

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2       budget, we will have a full review at the six  
3       month mark. But it's my understanding at this  
4       point the budget that was adopted did not  
5       include what you just stated.

6                   LEGISLATOR ABRAHAMS:       None of the  
7       four things have been?

8                   MS. JAMES:       The pension liability  
9       is budgeted for.

10                   LEGISLATOR ABRAHAMS:       But the tax  
11       cert liability as per Mr. Denion's testimony  
12       as well as the collective bargaining and  
13       longevity is not budgeted?

14                   MS. JAMES:       Those additions I did  
15       not see in the budget.

16                   LEGISLATOR ABRAHAMS:       Has the  
17       comptroller's office, when you come up with  
18       that six-month report, you will actually put  
19       estimates of what you believe these things  
20       will cost?

21                   MS. JAMES:       Correct. We will  
22       give a full assessment of our opinion on where  
23       we are at the six month mark and where it's  
24       projected to go for the rest of the year.

25                   LEGISLATOR ABRAHAMS:       How would

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2   you do that for the CBAs?

3                   MS. JAMES:       We would have to look  
4   at that.

5                   LEGISLATOR ABRAHAMS:     And the  
6   longevity pay, have you examined what the  
7   longevity would have cost?

8                   MS. JAMES:       Not at this point.

9                   LEGISLATOR ABRAHAMS:     Nothing  
10   further.

11                  LEGISLATOR MUSCARELLA:     Do we  
12   have any other questions? Thank you very  
13   much. At this point I'm going to ask  
14   Mr. Chalmers to come up please. Good  
15   afternoon.

16                  MR. CHALMERS:       Good afternoon.  
17   Maurice Chalmers, Budget Review.

18                  LEGISLATOR MUSCARELLA:     I just  
19   have basically one question. You've been  
20   sitting here throughout the entire hearing and  
21   my question for you is, is there anything you  
22   would like to add or say or tell us as an  
23   explanation or give us any information  
24   concerning what you heard here today?

25                  MR. CHALMERS:       We basically

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2       concur with the 2017 numbers, 2017 estimate,  
3       as far as we looked at them in the financial  
4       system as approximately \$50.1 million deficit  
5       as of right now. I think the comptroller's  
6       office and the administration gave different  
7       explanations on the aspects or the key drivers  
8       of some of the indices, and we are basically  
9       in agreement with them.

10               The 2018 numbers, we are in the  
11       process of doing some projections for 2018.  
12       We don't have a solid number for 2018 as of  
13       yet.

14               One of the areas that we will have  
15       to really consider is tax certs. We will  
16       probably go back on 2018 and have  
17       conversations with the county attorney, put a  
18       number on exposure and add that to our risk.

19               LEGISLATOR MUSCARELLA:     Do we  
20       have any specific questions? Ms. Birnbaum.

21               LEGISLATOR BIRNBAUM:     Thank you.  
22       I've read your report. It's very thorough.  
23       You mentioned funding for inmate health care  
24       which has not been restored in the budget.  
25       Would you elaborate on this and say about how

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2       much that was?

3           MR. CHALMERS:     That funding was  
4       not restored as part of the administration  
5       changes. We have some concerns. We will  
6       incur the cost but there is no funding in the  
7       amendments to cover the extra expense.

8           LEGISLATOR BIRNBAUM:     Could you  
9       say how much that expense is?

10          MR. CHALMERS:     I could go back  
11       and double check but I believe it was about  
12       \$1.4 million.

13          LEGISLATOR BIRNBAUM:     Mr. Page,  
14       would you be able to add anything to that? It  
15       does concern me. This could be problematic.

16          MR. PAGE:       We discussed the cost  
17       of health care with the correction staff when  
18       we were putting March together. They thought  
19       that they had some potential to put somebody  
20       in charge of watching that cost and how care  
21       was provided that I think could give us an  
22       expense outcome that's better than what was  
23       just mentioned. We are aware that we have a  
24       risk there. I think we have means of covering  
25       it if we need to as a matter of fact. And

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2       we'll see how it goes.

3                   LEGISLATOR BIRNBAUM:       Thank you.

4                   LEGISLATOR MUSCARELLA:

5       Mr. Abrahams.

6                   LEGISLATOR ABRAHAMS:       Maurice, I  
7       know you had heard earlier in regards to some  
8       of the things that are in the budget that the  
9       county can very will be obligated to pay in  
10      2018. We talked about longevity, the  
11      collective bargaining agreement, the tax cert,  
12      the pension cost. I know you had said you are  
13      still diving into the numbers. I just wanted  
14      to ask you as pertains to the tax cert  
15      liability, how much of a risk would you assess  
16      to the tax cert liability, hearing what Mr.  
17      Denion had indicated as well? To me that's  
18      seems like the largest, biggest number that  
19      gives me a little concern.

20                  MR. CHALMERS:       There's  
21      approximately \$30 million in tax cert funding  
22      in the budget.

23                  LEGISLATOR ABRAHAMS:       Which is  
24      inadequate. Sorry to cut you off.

25                  MR. CHALMERS:       So, our original

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2   assessment was another \$45 million worth of  
3   risk. Which would bring it to historical  
4   spendings. But as was just mentioned by  
5   Mr. Denion, that exposure could go up to \$134  
6   million. We need to go back to him and see  
7   how much of the tax certs could become  
8   judgement and therefore due and that would be  
9   the risk that we would recognize in the 2018  
10   budget.

11           LEGISLATOR ABRAHAMS:     My concern  
12   also is we should probably monitor this more  
13   closely than we have in the past considering  
14   what Mr. Denion indicated in regards to the  
15   accelerated pace. I just don't want the  
16   county to be handed a bill towards the fourth  
17   quarter of this year and us not know about it  
18   and have an opportunity to prepare for it.

19           MR. CHALMERS:     Agreed. I believe  
20   NIFA in their original assessment had a risk  
21   of \$40 million. We thought it was a little  
22   bit more than our original assessment. We had  
23   45. But again, we will reach out to the  
24   county attorney and try to get a number as far  
25   as how much risk we could have in addition to



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2       the \$30 million that is currently funded in  
3       the 2018 budget.

4                   LEGISLATOR ABRAHAMS:       Got it. I  
5       have nothing further.

6                   LEGISLATOR MUSCARELLA:  
7       Mr. Kopel.

8                   LEGISLATOR KOPEL:       Good afternoon  
9       Maurice. I want to keep on beating a  
10      particular horse. Can you offer any  
11      enlightenment on my question that you've heard  
12      me refer to a number of times on the use of  
13      the fund balance? Was it used? Was money  
14      taken from a fund which had cash but an  
15      unassigned negative balance and so forth?

16                  MR. CHALMERS:       There was a  
17      balance in the undesignated fund balance of  
18      177 million.

19                  LEGISLATOR KOPEL:       Cash.

20                  MR. CHALMERS:       We had enough cash  
21      to back that up. So we had 177 million in the  
22      undesignated fund balance.

23                  LEGISLATOR KOPEL:       As of?

24                  MR. CHALMERS:       As of the end of  
25      2016. What the comptroller was talking about

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2       was the unrestricted portion of it which was  
3       the 46.7 million I believe was their number.  
4       I guess what was presented to this body was  
5       the need to bond for Restivo in order not to  
6       spend the entire unrestricted amount.

7           LEGISLATOR KOPEL:       Was that  
8       indeed spent and then some?

9           MR. CHALMERS:       I don't know. I'm  
10       not 100 percent sure of the answer. I believe  
11       the Restivo case was settled. I am not 100  
12       percent sure of where the funds came from.

13          LEGISLATOR KOPEL:       They probably  
14       came from just cash.

15          MR. CHALMERS:       Probably just came  
16       from cash but I don't know for sure. I would  
17       have to double-check that.

18          LEGISLATOR KOPEL:       Could you?

19          MR. CHALMERS:       Yes.

20          LEGISLATOR MUSCARELLA:  
21       Mr. Nicoletto.

22          LEGISLATOR NICOLELLO:    Just  
23       several quick questions. The administration  
24       made a determination actually not to pay for  
25       Restivo through the bonding and fund balance

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2     but has identified revenues et cetera which  
3     largely are going to pay for the Restivo  
4     judgement. Since they have identified these  
5     revenues and other initiatives and now have  
6     connected those to Restivo, and in fact if  
7     they are spent for Restivo, if the  
8     administration needs additional monies later  
9     on this year in terms of settling contracts  
10    those monies are gone, correct?

11                   MR. CHALMERS:     Correct. By  
12    paying for Restivo and not accounting for any  
13    borrowing you've essentially removed any  
14    flexibility that you could have had in the  
15    budget.

16                   LEGISLATOR NICOLELLO:     Thank  
17    you.

18                   LEGISLATOR MUSCARELLA:     If there  
19    are no further questions I think our job here  
20    is done. Thank you Mr. Chalmers.

21                   (TIME NOTED: 5:30 P.M.)

22

23

24

25

CERTIFICATION

I, FRANK GRAY, a Notary  
Public in and for the State of New  
York, do hereby certify:

THAT the foregoing is a true and  
accurate transcript of my stenographic  
notes.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 26th day of  
April 2018

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FRANK GRAY