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APPEARANCES

BOARD MEMBERS:

BETTY YEE, CHAIRPERSON
YVETTE STOWERS
JACQUELINE WONG-HERNANDEZ
GEORGE RUNNER

STAFF:

SELVI STANISLAUS, EXECUTIVE OFFICER
DAWN CASEY, BOARD LIAISON
ALEX ESCOBAR
DIANE DEATHERAGE
JEANNE HARRIMAN
SHANE HOFELING
JONATHAN LUNARDINI
ROSITA MINDERMAN
JENNIFER ROUSSEL
MELISSA STONE
RICHARD TAY
TIPHANIE WEISS

COUNSEL:

JOZEL L. BRUNETT
BRUCE LANGSTON

ALSO PRESENT:

DENNIS L. LOPER, Capitol Strategies Group

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SACRAMENTO, CALIFORNIA
FRIDAY, SEPTEMBER 21, 2018 2:30 P.M.

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CHAIRPERSON YEE: Good afternoon. This is the scheduled time for the meeting of the Franchise Tax Board.

Would the board liaison please call the roll to determine if a quorum is present.

MS. CASEY: Member George Runner?
MEMBER RUNNER: Here.

MS. CASEY: Member Wong-Hernandez?
MEMBER WONG-HERNANDEZ: Here.

MS. CASEY: Chair-Controller Betty T. Yee?
CHAIRPERSON YEE: Here.

At least two members or their designated representatives being personally present, there is a quorum and the Franchise Tax Board is now in session.

At this time, I would ask that you join me in standing and -- join me in the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRPERSON YEE: Thank you.

I want to welcome everyone and let you know, the public has a right to comment on each agenda item before the board. If there are members of the public wishing
to speak on an item, please come forward when that item is called, and you will have three minutes to address the board.

The first item, Members, is approval of the minutes. We have the minutes of the June 5th, 2018, board meeting before us.

Any comments on the minutes at this point?

Hearing none --

MEMBER WONG-HERNANDEZ: Move adoption.

CHAIRPERSON YEE: I'd entertain a motion.

MEMBER RUNNER: Move adoption.

(No audible "second.")

CHAIRPERSON YEE: Okay. Motion by Member Runner; second by Member Wong-Hernandez.

Without objection, the minutes are approved.

Item number 2 is a Presentation on Operational Excellence in Action, related to Business Process Improvement.

And we have Melissa Stone here to present this item. This is an informational item.

Good afternoon, Melissa.

MS. STONE: Good afternoon. My name is Melissa Stone, and I am excited to share with you how we are actively working towards our goal of operational excellence here at FTB.
As you are all aware, operational excellence is our fourth strategic goal. We define operational excellence as the optimization of processes, products, services, and resources to better serve our customers.

I want to highlight a key part of this definition, optimization, as it relates to what we are talking about today.

The root of optimization is "optimize," which simply means to make the best or most effective use of something. So if we break down our strategic goal, what we are really saying is that we want to make the best or most effective use of our processes, products, services, and resources. When we do this, we are able to better serve our customers and fulfill our mission.

We have been recognized as a leader amongst governmental agencies, and we do not take this lightly. We actively strive to identify opportunities to go from good to great.

I would like to talk for a moment about what I mean by going from good to great. I think one of the easiest ways to grasp this concept is through a real world example.

Remember Henry Ford? He is credited with revolutionizing the automobile manufacturing process with his Model T assembly line. He did not invent the
first car, nor was he the first to produce them. What set Henry Ford apart is that he understood something very important: Business is about customers. He looked for a way to improve his process to meet customer demands while still delivering a high quality project. And, boy, did he meet that goal; his improved process was faster, better, and cheaper. The assembly line reduced processing from 12 hours to just over one hour and decreased the cost per car from $825 down to $300.

These improvements drove sales, which allowed Ford to increase his employees' wages, invent new features for the car, and develop other areas of his business.

I think you would all agree that Henry Ford took his processes from good to great. This is what it means to optimize processes, products, services, and resources to better serve one's customers.

Now, I'm not suggesting that we go into the car manufacturing business. I think we have plenty of work on our plate here at FTB already. However, I believe as many of us do, that we can apply similar thinking -- faster, better, cheaper -- to what we do here at FTB.

Let's take a look at how this fits into how we manage our processes:

As managers and supervisors, we view our
processes as valuable resources and manage them based on the type of work that needs to be completed.

We use technical management for our routine, day-to-day functional work and adaptive management when we are faced with a changing environment. At FTB, we excel at our technical work. We know what we do, how we do it, can easily identify when something isn't going as planned, and know how to get it back on track.

Our adaptive work is quite different in that it often requires new learning to determine workable solutions. Factors driving the changing environment can be hard to identify or not clearly understood, such as new legislation, new issues, or technologies.

Adaptation of our processes, products, services, and resources is necessary in these situations to optimize our operations. We adapt to survive and, more importantly, to thrive.

So how do we do this?

We do it through adaptive leadership. We proactively step out of our day-to-day work, scan the environment for changes, and identify opportunities for growth. As leaders, we work collaboratively across the enterprise to adapt and thrive in challenging our new situations.

We embrace the process of change and strive to
get the most out of every one of our processes. And our leaders don't have to reinvent the wheel to do this. We have an established business -- business process improvement methodology they can employ when going from good to great.

There are many popular business process improvement methodologies available today that provide a structured approach for adaptive leaders to follow when they face a changing environment or simply want to proactively take their processes from good to great.

Some of the more common methodologies include Six Sigma, which focuses on reducing variants; Lean, which focuses on reducing waste; Lean Six Sigma, which, as its name applies, combines Lean and Six Sigma; and Business Process Management, which focuses on human processes and interactions. While each of these can exist independently, business process improvement programs frequently combine components from various methodologies to meet their department's demands.

This is what we have done here at FTB.

FTB was first introduced to the Business Process Management methodology through the EDR project and quickly recognized how valuable this methodology could be. Since that time, we have established our formal process improvement life cycle, created a departmental
team to aid our leaders in our process optimization efforts, and applied the methodology across the enterprise. We have established enterprise processes and created our Business Process Owners Committee through our governance model.

More recently, we have updated our process improvement life cycle by incorporating Lean Six Sigma principles into our established methodology. When we apply this life cycle, which I will share with you in a moment, program managers, process improvement analysts, and subject matter experts collaborate to build improved processes.

In addition, we have recently begun to incorporate the customer experience co-creation methodology that was shared with you at the last board meeting, into our life cycle. And this is proving to be an excellent addition.

It allows us to leverage customer input to ensure that we are providing the best possible -- possible customer experience through our improved processes.

As I mentioned a moment ago, I want to share a process improvement life cycle with you. This is one of the premier tools FTB's leaders are using to achieve operational excellence. When we, as an organization, follow the eight steps of the life cycle, we are able to
understand and manage our existing business processes, identify areas for improvement, and introduce changes or processes that enhance the customer experience.

For example, we use the life cycle to help us understand and improve the multi-payments process. A multi-payment is when one check is submitted for a group of taxpayers or tax years. After three unsuccessful previous attempts to deliver a solution that worked for all business areas, we use our business process modeling that is part of the life cycle to accurately document the existing business processes.

This was a huge turning point for the team in that it helped them to understand that the process was significantly more complex than anyone had previously understood.

Once the models were complete, the team was able to build an improved process that worked for all impacted business areas. We have successfully implemented the improved multi-payments process for our individual taxpayers, also called our personal income taxpayers, and are using a similar process for other multi-payment types.

Another example that shows the usefulness of this methodology is implementation of the new FI$Cal processes. Our business partners in the finance and
executive services divisions reached out to our process improvement team for help in understanding the many new processes that came with the FI$Cal implementation. We were able to use our business process modeling to create visual flows of the new processes that could easily be understood by our many staff that would be responsible for them upon implementation.

These examples demonstrate our commitment to continuous improvement and how we strive to go from good to great.

So what's next? We have established many best practices already but know we are never done. As new technologies continue to emerge, our environments continue to change and customer demands and expectations continue to grow, so will our quest for operational excellence.

With support from our executive management, we are actively working to mature our business process improvement program. I personally have had the opportunity to work with industry leaders and other state agencies to learn about their best practices. As an organization, we are committed to promoting a culture of change and continuous improvement. We want to avoid a fixed mindset and continue to build a growth mindset.

We are also in the process of developing metrics
to quantify and track the value of our many process improvement efforts that are occurring all over our department under the leadership of many talented managers and supervisors.

I began this presentation today by mentioning the fourth goal of our strategic plan, operational excellence. Like Henry Ford, we are committed to getting the most out of our processes while providing the best possible service for our customers. We are committed to meeting taxpayer expectations in the present as we also strategize and plan to meet those expectations in the future.

Thank you for allowing me to present this topic to you today and for your support of our strategic goals, which continually push us forward.

I now welcome any questions you may have.

CHAIRPERSON YEE: Thank you very much for the presentation.

Questions or comments, Members?

Great.

Thank you for the presentation.

MS. STONE: Thank you very much.

CHAIRPERSON YEE: Thank you.

Let's move on to item number 3, which is the Management Development Program Project, and this is
relating to the gig economy. It's another informational item. We do have a video and PowerPoint and we are asking Rosita Minderman and Alex Escobar to present this item.

Good afternoon to both of you. Good afternoon.

MS. MINDERMAN: Good afternoon, Members of the Board. My name is Rosita, and this is my co-presenter, Alex.

We are here to talk to you about the gig economy. The information we are sharing with you originated from a project assigned to us as part of our participation in last year's Management Development Program, and we want to acknowledge our other team members joining us today who helped us develop the analysis and action items we will be sharing with you.

This project supports our department's strategic goal of providing taxpayer-centric services to the citizens of California in order to help them fulfill their tax obligations.

We would like to share a brief video we developed as part of our project. It will help level-set the rest of our presentation by defining the gig economy, how it works, and why FTB is looking at this rapidly growing facet of the economy.

(video presentation.)
MS. MINDERMAN: So from the video, we introduced you to some common terminology used by participants in this industry. But whether it's called the digital, gig, or sharing economy, the impact is significant.

So the gig industry typically includes three players:

First is the user of the service, or the customer. This is the person wanting to purchase a ride, food delivery, or the use of a home for their next vacation.

Next is a service platform, usually a mobile app. The service platform connects the customers with the people who are providing those services.

Finally, there is the service provider, or the independent contractor. They are the individuals who provide the ride, deliver the food, or host the rental house.

FTB's role in this relationship is to help the service providers understand their tax obligations as they earn income from their customers that may be reportable on their tax returns.

The gig economy is clearly a growing economic trend. It started back in the 1990s with eBay and Amazon. While some thought this might be a short-lived fad, statistics seem to show these types of services are
growing and won't be going anywhere in the foreseeable future.

According to a report by PricewaterhouseCoopers, global gig economy revenues were up $15 billion in 2014, and they project that figure to grow to an astounding $335 billion by 2025. The significant driver for the growth is attributable to the new and increasing ways people are participating in the gig economy.

Unfortunately, statistics are showing that even at the existing participation levels, service providers are already challenged understanding their tax obligations that come with this new way to generate income.

A 2016 survey of members of the National Association of the Self-Employed showed that 70 percent of service providers did not receive any tax information from the service platform they use to earn their income. 35 percent of those service providers were unclear regarding the records they would need to keep to properly identify and report taxable income on the returns.

Independent contractors who provide services in the gig economy and meet the minimum requirements should receive a Form 1099-K. These IRS forms must be provided by the service platform to an independent contractor.
when the independent contractor gross payments exceed $20,000 and they have more than 200 transactions in a calendar year.

When the 1099-K was introduced in 2011, it was created in part for people who ran their businesses through online marketplaces such as eBay and Amazon. The thresholds were set high to account for business expenses, such as storage and cost of goods sold, that was normally associated with these types of businesses.

In other words, they wanted to make sure that these tax forms were only required when there was likely to be a taxable income after considering business income and expense.

And as the online economy has evolved, businesses that are more service oriented have negligible expenses, making more of their gross income subject to taxes.

So the challenge here is really twofold: educating service providers that tax documents such as the 1099-K and that the lack of a 1099-K does not always mean a lack of taxable income.

So now I would like to hand this presentation off to Alex, who is going to share some of our gig economy trends that we looked at as we worked through our project.

MR. ESCOBAR: Good afternoon.
Our team looked at multiple sources of data to determine whether there was a compliance gap in this industry. We would like to share just a couple of findings with you next.

We looked at the top 100 gig platforms in 2016 to see which provided 1099-Ks to service providers. We found that only 12 percent of them submitted 1099-Ks to FTB. Within that 12 percent, half issued less than 55 to service providers. The vast majority of these service platforms, or 88 percent, in our sampling did not issue any 1099-Ks.

Honestly, our team expected that a larger number of platforms would have issued these tax forms. But as we looked through the requirements, we realized that it's possible only the 12 percent had a requirement to issue 1099-Ks.

As Rosita mentioned on the last slide, the requirements were purposely set on the higher end at a time when cost of goods sold was much greater for digital online markets. But this assumption doesn't address the need for service providers to accurately calculate their taxable income in the absence of a 1099-K.

We then decided to take a deeper dive into the 1099-K data. This form is used to report payment card
and third party network transactions. The issuer of the form must check one of these two boxes in the area highlighted on the screen. The gig economy falls into the third party network box. Unfortunately, for the purposes of our project, we couldn't isolate information associated only with the service providers.

But looking at the data in total, we did see some interesting trends:

Between 2011 and 2016, the number of companies issuing 1099-Ks grew by 163 percent. For that same period, the number of independent contractors receiving 1099-Ks grew by only 26 percent. While we would not expect to see exactly the same kind of growth, we do think it should be somewhere in the ballpark.

So all this data validates the need to educate service providers on their tax obligations because the service providers may not yet be educated on their reporting requirement, and regardless of whether a 1099-K is issued, services providers need to understand how to calculate their taxable income and what records to keep. As Rosita mentioned, not receiving a 1099-K doesn't mean income earned is not taxable.

To bring awareness to this growing issue and to provide better services to our taxpayers, our recommendation focuses on education and outreach.
efforts. Many gig economy independent contractors don't understand what is required of them and are confused about whether their income is taxable or not. Many don't think of themselves as conducting a business at all. Most view these activities or gigs as side jobs, quick, under-the-table money, or simply a hobby.

To further reach the gig economy participants, we recently created a California Gig Economy Tax Center Web page, similar to this Web page on the screen.

This Web page will be a resource for independent contractors to provide them information on how they should account for earnings from their gig work and contracts, as well as include educational videos, frequently asked questions, and links to other helpful sites.

Other efforts to increase awareness include developing materials for distribution through tax news articles; FTB social media outlets, such as YouTube, Facebook, Twitter and Instagram; and we would also leverage new or existing partnerships with field offices and other state and local departments, such as the DMV, to show videos and display messages on their TV screens.

In summary, the gig economy isn't just a buzz word anymore; it's a growing segment of the modern market.
The Bureau of Labor Statistics estimated, for 2016, that nearly 53 million Americans, or 34 percent of the workforce, participated in this relatively new way of earning. They project that figure to grow to 43 percent by 2020.

So our job, here at FTB, is to help make filing a tax return easier for this rapidly growing group of taxpayers.

Thank you for allowing us to present this topic. We would be happy to answer any questions.

CHAIRPERSON YEE: Thank you very much for the presentations.

A very important presentation as we see this segment of the economy continue to grow.

Questions or comments, Members?

Yes. Member Wong-Hernandez.

MEMBER WONG-HERNANDEZ: Thank you for the presentation.

I think it's great that you all are looking into this and looking at ways to reach out to people, because I think that you are right in sort of thinking that people just don't know. They are not necessarily sure.

And so I look forward to hearing updates about the creative ways you are finding to reach people and participating in the gig economy.
Thank you for this.

CHAIRPERSON YEE: Yes, Member Runner.

MEMBER RUNNER: Just a quick question.

Some of the -- some of the -- I know some of the cities and counties, I believe, are requiring some kind of registration at times for people who are providing these kind of services.

What kind of interaction do we have with those local governments to identify registrations that they may be having and awareness of those individuals?

MS. MINDERMAN: So that's one of the action items for us to continue to follow up on is, we do plan on reaching out to the cities and locals to kind of work with them, to provide education, to see what they are doing. And we're working closely with our Taxpayer Right Advocates Office, who has connections with those cities and counties as well.

CHAIRPERSON YEE: Okay. Thank you.

Let me -- I have a couple questions.

So these service platforms, are they all identifiable? I mean, is there a source that tells us how many there are in realtime and how many are getting established?

MR. ESCOBAR: We know who the common ones are, the larger ones. But no, there's no true way to
identify the new ones that are coming out.

CHAIRPERSON YEE: And in some ways, I would also think that existing employers might be a good place of outreach, to the extent that the way they are going to be looking to have work conducted and fulfilled might be through -- through more, you know, contract-related work or platform-based work. So I think certainly continuing to work with them.

I am just trying to think about other interfaces that the service providers would have, that might be -- where they would be met with information that continues to remind them about -- about their requirements and responsibilities.

Okay. All right. Good.

Obviously it's perplexing. It reminds me of the use tax compliance issue in some ways.

All right. Thank you for the presentation.

I think I would like to just kind of continue to hear updates about this, and, particularly, I would imagine with the next economic downturn, we're going to see much more prominence with respect to growth in this sector. So if there are updates that can be provided on a regular basis, we would entertain that.

MS. MINDERMAN: For sure.

MEMBER RUNNER: Thank you.
CHAIRPERSON YEE: Thank you. Thank you both.
MR. ESCOBAR: Thank you.

CHAIRPERSON YEE: Okay. Now on to item number 4, which is the Fraud Update. This is another information item and PowerPoint to be presented by Jonathan Lunardini and Jennifer Roussel.

Good afternoon.

MR. LUNARDINI: Good afternoon. My name is John Lunardini and I manage our fraud and identify theft programs here at FTB. To my right is Jennifer Roussel and very recently became FTB's EDR2 business director. Prior to that role, she managed the fraud and identity theft programs for over eight years and played a pivotal role in building the program into what it is today. Jennifer is here to answer any questions you may have at the end of the presentation.

As you know, identify theft happens when personal information is stolen and used to commit fraud. There are various ways that stolen identities and illegally obtained data is used to commit fraud in the tax world. The most common form of fraud we see here at FTB is refund fraud. But as fraudsters have become more resourceful and creative, we're starting to see other ways their actions intersect with our world.

For example, returns filed by individuals working
under an alias when the fraudster has no Social Security
number; setting up a completely fictitious business with
fake employees and fake W-2s, which are then used to
file fake returns; and then there's the hybrid of some
or all of the above, which we refer to as synthetic
identity theft. But, trust me, we have seen just about
everything.

Now I would like to show you some national and
state trends:

In 2015, the Federal Trade Commission reported an
all-time high volume of identity theft cases, resulting
in a 47 percent increase from the prior year. As you
can see from the chart, this number has been steadily
decreasing over the last two years, and that's a trend
that we hope continues.

This next slide shows the volume of confirmed
identity theft tax returns identified by the IRS. They
have also been turning down identify theft attempts over
the last two years, dropping from 1.4 million fraudulent
returns filed to 597,000, which represents a 57 percent
decrease.

Similar to the FTC and IRS data, California has
also seen a significant decrease in identity theft over
the last two years, dropping from approximately 21,000
fraudulent returns stopped in '15, which resulted in
just over $70 million in fraudulent refunds being
stopped; to 4600 returns in 2017, or $11 million in
fraudulent refunds stopped.

This decrease is a credit to our diligent and
hard working fraud staff and our national efforts and
partnerships, which I will discuss in a moment.

Even though we have seen a decrease in identity
theft, the impacts to the victims of identity theft is
not diminished. These criminals and syndicates are more
organized than ever in running fraud schemes like a
business in order to maximize their profits. Their
agenda doesn't stop with tax refund fraud. It extends
to every area of the victim's finances. They commit
credit card fraud; they use their medical benefits; they
use stolen identity information to steal from other
government benefit programs; and even commit tax refund
fraud in other states.

For taxpayers, the effort to resolve these issues
can be really overwhelming. The taxpayer may have to
prove they did not file a fictitious return or receive
the refund in question by sending in documentation to
prove that -- prove their identity and the source of the
income.

And if they are expecting a refund, they have to
resolve the identity theft first in order to process the
real return, which causes more delays.

This can be a very frustrating situation for the taxpayer and we continuously evaluate our processes for areas we can improve to alleviate the understandable anxiety felt when you discover someone has stolen your identity.

For example, this past season, we revamped our identity theft notice, asking the taxpayers simply to call us directly, rather than providing documentation via correspondence. This has proven to be much more efficient and resulting in very positive feedback from our taxpayers.

The impact of identity theft is not only felt by the taxpayer but by FTB and California as well.

With the dramatic increase in data loss via corporate fishing, tax preparer takeovers, coupled with mega breaches, such as Equifax, OPM, and Yahoo, it's getting more difficult to distinguish a good return from a fraudulent return due to the highly consistent data available to the fraudsters.

As the schemes grow in complexity, FTB continues to dedicate our staff to the detection of identity theft and the prevention of refund fraud. This, however, requires us to spend more time examining the returns and looking for the smallest discrepancies in order to
protect our taxpayers and the general fund. This not only increases processing times of returns, but increases our operating costs as well, in spite of reduced volumes of fraud ultimately found.

In addition, there's an impact to California's General Fund. Unfortunately, there is a small percentage of fraudulent funds slipping past our net that are not identified in time to stop the refund from being paid, despite our best efforts to do so. These funds, once released, are nearly 100 percent uncollectible because identifying the criminals and collecting from them is extremely difficult. This is why FTB focuses on detecting and stopping refunds before they are issued.

Two of FTB's foundational principles are protecting taxpayer information and privacy and carrying out our fiduciary responsibilities for taxpayers by managing their accounts with accuracy and financial integrity. We make protecting taxpayers in California our top priority. This is why FTB has developed a strategic approach to combating fraud, which includes a dedicated call center directly supporting taxpayers victimized by this crime.

All of our call center staff are very committed to protecting California and our taxpayers. Last year,
our call center received roughly 200,000 calls, manually
reviewed 340,000 accounts, and worked 180,000 pieces of
correspondence.

We also applied predictive models and utilized
our new case management system for our refund fraud and
identity theft programs. This automated system reviews
all refund returns for potential fraud and identifies
suspicious returns for manual examination by our staff.

We are currently in the process of updating our
external identity theft Web page to provide more helpful
information as a source of education and outreach. We
have also partnered with the Federal Trade Commission so
that victims who visit their Web page can link directly
to our website as well. This is just one of the
nationwide partnering efforts that we are exploring.

Other nationwide efforts we are pursuing to
combat identity theft refund fraud include participating
in the IRS Security Summit. By early 2015, the levels
of identity theft/tax refund fraud had reached alarming
levels nationwide. To address this, the IRS convened a
security summit in March of 2015. The summit was
composed of the IRS, multiple states, tax software
industry leaders, and financial institutions.
California has been a participant in the security summit
from the start.
The participants immediately recognized that to combat this epidemic, a coordinated and multi-layer effort by all impacted organizations was needed. The summit formed work groups around authentication, information sharing, strategic threats, financial services, and tax professional groups. This was an unprecedented step which opened up partnerships and information sharing across the entire tax ecosystem.

FTB is active across the summit groups and has taken a leadership role in a newly created Information Sharing and Analysis Center, otherwise known as the ISAC. The ISAC is a one-stop shop for aggregated identity theft data and leads across the nation. Through the ISAC, FTB shares and receives fraud lead information daily. The ISAC also provides for our rapid response team that elevates and shares information regarding emerging threats with our partners. California is one of three state members on this team.

FTB has also worked on pilots with the IRS and financial institutions in identifying fraud and information sharing. We also receive leads from other states, our tax software partners, and financial institutions as well.

As I mentioned earlier, the IRS announced a 57 percent decrease in identity theft since 2015 and
attribute it to the security summit. This alone

demonstrates the significant value of this

public-private collaboration to fight refund fraud.

Our efforts with the security summit and the ISAC

is paying huge dividends for California, as we have seen

similar decrease in identity theft returns since 2015 as

well.

As you can see from these trends, our efforts are

working as attempts to file fraudulent returns are down

in California and across the nation.

As we look to the future, however, we must

continue to monitor trends and strengthen our defenses

as fraud schemes change. These criminals have been

upping their game, stealing more detailed information,

to better impersonate legitimate taxpayers and continue

to develop more sophisticated schemes. These criminals

are smart, organized, nimble, and well-funded, which

requires us to stay vigilant and never let our guard

down.

I have shared a lot of information and wanted to

mention one last point: Here at FTB, we all understand

that this kind of crime feels very personal to the

taxpayers we help. We hear the stress and confusion in

their voice when we talk to them. Often we need to

spend time explaining and reexplaining what happened and
how -- how we'll help them get through this difficult
time. Because we see the personal side of this, I want
you to know that every one of us is very dedicated to
what we do and having an executive team and board that
cares about how identity theft impacts taxpayers is
invaluable.

So, again, thank you for your support. It really
does make a difference. And I would be happy to answer
any questions you may have.

CHAIRPERSON YEE: Thank you very much for the
presentation, Jonathan.

Questions or comments, Members?

Yes. Member Runner, please.

MEMBER RUNNER: I have a quick question. And
again, I think it's important, and I appreciate that --
what we're doing to aggressively deal with this.

I have a tangent, and it's not so much a fraud
that affects the state in terms of payment, but it
certainly is a fraud that is perpetrated on the
taxpayer. And I don't know if we've all received --
maybe I get more than others -- this phone call that
says, hey, the IRS is calling and you have -- you have a
payment due or you have -- you know, they are looking
for you for a payment, call us quickly.

And I -- for a lot of people, I'm sure that's
quite a panicked phone call.

Do we hear -- do we hear much from taxpayers? It's usually about the IRS. I don't hear anything about state income tax. But do we hear much from taxpayers about getting those calls and inquiries about what they -- about where that came from or what they should do?

MS. ROUSSEL: We do have calls that come in on occasion, but, most often, it is IRS-generated calls. But our staff are definitely prepared to answer those questions and help assure them of what's going on with their taxes here in California as well as where they can call with the IRS to confirm that everything is okay.

MEMBER RUNNER: Do you know if anything is -- is there anything that we do with the partner -- or if the IRS partners with other states in regards to trying to communicate to the taxpayer, you know, if you got a problem, here's how we will communicate with you; we don't do -- communicate to you this way --

MS. ROUSSEL: Yes.

MEMBER RUNNER: -- in order to help relieve that?

MS. ROUSSEL: Yes. There's a ton of actual outreach that the IRS is doing. We partner with them, obviously, through the security summit as well, so we share that information with our Public Affairs Office
that finds ways and avenues in order to get that into
the media's hands.

IRS, though, does a very good job of doing that.
So you will see articles and so forth, TV news programs,
that will come out, especially when those efforts seem
to pick up. There are certain times of the year that
they do seem to start doing it a little bit more often.

MEMBER RUNNER: I talk to them and see how
quickly they hang up when I start requesting.


So the more we can put that information out there
as a nation, as well as a state, we'll do a good service
for our customers.

MEMBER RUNNER: Thank you.

CHAIRPERSON YEE: Other questions?

Yes, Member Wong-Hernandez.

MEMBER WONG-HERNANDEZ: Quick question: I don't
know if you all know the answer to this. I know that
you are doing a lot to prevent, you know, returns from
being filed fraudulently.

Who is -- I mean, what -- where -- do you give
the information to some sort of law enforcement or
investigative entity? I know you said that it's really
difficult to investigate these things. But are you
working -- are you working either with other states or
as part of your -- your collaboration, ISAC -- was that?

MS. ROUSSEL: Yeah.

MEMBER WONG-HERNANDEZ: -- to kind of talk about going -- I don't know if they are task forces. I don't know. I'm just kind of curious what the enforcement is.

MS. ROUSSEL: So, thankfully, Franchise Tax Board has our own Criminal Investigations Bureau, and we partner incredibly closely with them on every scheme that's pretty much coming through, especially on some of the larger ones. We share information very openly with them, do a lot of research to prepare those cases, so that they can pursue.

And then they also partner across the nation to ensure that we are trying to find the culprits and put a stop to it.

CHAIRPERSON YEE: Good. Thank you.

I have a couple questions.

So the -- I know the Department of Consumer Affairs also has quite a bit of presence in terms of identity theft prevention.

Do we coordinate any of our efforts with, just, their general outreach?

MS. ROUSSEL: Yes. So, at this point, I believe that we do have some communication through our Public
Affairs Office.

CHAIRPERSON YEE: Okay.

MS. ROUSSEL: But in addition, there is an initiative that FTB is pursuing, which is a statewide identity theft communication, per se, effort, to get the state -- California's departments together, that are impacted by identity theft, to see how we can share information more openly.

CHAIRPERSON YEE: Okay. Great.

And then I'm -- as you were speaking, I was thinking about situations such as those who are trying to rebuild their lives, particularly after disasters, where records have been lost or, you know, not a lot of documentation. And it just seems, to me, that's a ripe recipe for a lot of information getting crossed.

So are we enhancing our efforts there, particularly in those disaster areas?

MS. ROUSSEL: I know that FTB has our efforts where we go out and help our disaster victims. We end up -- we are part of the process of manning some of the stations. So we're there helping to try and get information into the taxpayers' hands, so that they can get the information from us that they need, to be able to rebuild their financial situation and their tax situation.
CHAIRPERSON YEE: So can you talk a little bit more about that? Because I know, for probably an average Californian, they are trying to rebuild. And maybe this is a typical situation, where they have lost all their personal identification. Any kind of, I don't know, whether it's credit cards, everything is just gone.

Is there kind of a coordinated effort in terms of any one victim of a disaster, in terms of just helping them just connect, so that they are not providing their Social Security number 10 times, 12 times?

MS. ROUSSEL: You know, that is something I don't have information I'm knowledgeable on.

EXECUTIVE OFFICER STANISLAUS: Laureen do you want to come forward and address that issue?

CHAIRPERSON YEE: So I imagine that they'd interface with, perhaps, the tax agencies, certainly the DMV, financial institutions.

MS. PHILIPP: Good afternoon. My name is -- good afternoon. My name is Laureen Philipp. I am the director of the Field and Complex Account Collection Bureau, and staff in my area coordinate our response to the Local Assistance Centers.

Every time we go out, there are news coordination by OES or by FEMA, depending on the status of the
disaster. And there's efforts there to make sure that
every agency is represented and that we are all helping
the taxpayers to recreate their documentation that they
need. There's information that refers them to law
enforcement and helps to protect the taxpayers if they
are approached by scam -- scam artists.

CHAIRPERSON YEE: Okay. All right. That's a
lot. Unfortunately, those who are looking to commit
identity theft crime seem to be many steps ahead of us.
Continue to be vigilant. Thank you for your report.

All right. No other questions or comments,
Members, we'll move on to the next item.

Thank you very much for the presentation.

MR. LUNARDINI: Thank you.

CHAIRPERSON YEE: On to item number 5, which is
the legislative update, and this will be an
informational item presentation by Diane Deatherage.

Diane.

MS. DEATHERAGE: Good afternoon and happy Friday.

I'm Diane Deatherage, and I will be giving the
legislative update today. I would like to start by
saying that a few bills have been signed since the
binders were prepared, so I may mention some bills that
are not included in your binder materials.

So let's get started with the budget trailer
language bills. I'm only going to talk about the relevant provisions that impact our department. Otherwise, we would have to get somebody from the gig economy to deliver some DoorDash dinner.

First, AB 110 is a technical clean-up bill that clarifies the additional recording fees on certain real estate transactions required under the Building Homes and Job Act from 2017 are not applicable to federal, state, and local government recordings.

Next, under the trailer bills is SB 855. This -- this bill impacts FTB in a few different areas:

The first area is the California EITC. The age and income thresholds were expanded to allow more taxpayers to qualify for this credit;

SB 855 also included provisions that extend the existing New Employment Credit and the California Competes Hiring Credit;

The next was a provision relating to tribal earned income, which excludes income from -- for tax purposes for tribal members, depending on where the income is earned;

The final relevant part of SB 855 is the deletion of the sunset date related to the tax data sharing agreement between FTB and cities and counties.

Now I would like to cover other enacted bills
that impact FTB.

AB 3143 allows FTB to be reimbursed by the California Tax Education Council, or CTEC, for enforcement activities consistent with the Tax Preparation Act. This bill also extended the sunset date of this existing statute.

Next, there were a few voluntary contribution funds added this year. They relate to Organ and Tissue Donor Registry Fund; Schools, Not Prisons fund; National Alliance on Mental Illness Fund.

Also, one voluntary contribution fund was renamed and extended, and that one relates to Alzheimer's Disease.

Now I would like to highlight a few bills that are before the governor for his signature or veto by the September 30th deadline:

The first one is AB 2503 for Administrative Dissolution of Domestic Corporations and LLCs. You may recall this bill was an FTB-sponsored bill approved by you all last December. The idea of administrative dissolution has been brought forward in a Taxpayer Bill of Rights Hearing at least a couple of times.

AB 2503 would provide administrative dissolution for certain domestic corporations and domestic LLCs. It would be very similar to the process that was put into
place for nonprofit corporations back in 2016.

The next bill is SB 274 and that relates to the Partnership Audit Rules for the Federal Audit Reports. This bill started out as an FTB-sponsored bill approved by the board during December also. For background information, at the federal level, the IRS may now issue audit adjustments directly to the partnership instead of flowing the adjustments through to all of its partners. SB 274 would give the department the necessary authority to issue our Revenue Agent Report, RAR, adjustments based on these federal audit adjustments to those partnerships.

The last enrolled bill that I will mention is SB 539, covering the College Access Tax Credit. This bill would modify existing law to increase the credit percentage allowed from 50 percent to 75 percent and the total amount of credits allocated would increase to $1 billion.

This bill is of interest because of the proposed IRS regulations, that were issued in late August, due to various states' legislation, created in response to the SALT, or State and Local Tax deduction cap of $10,000, which was put in place under the federal Tax Cuts and Jobs Act.

The proposed regulations would reduce the
deductions for charitable contributions for which a
state tax credit is claimed. We have updated our public
website with the IRS -- or sorry, to the IRS page
describing their draft regulations that address how
donations with state tax credits should be reported on
the federal return. That was just updated very
recently.

Finally, on to the topic of tax conformity. We
want to let you know that we scheduled a meeting on
November 15th, which will allow us to meet with our
stakeholders to find out what areas of conformity are
important to them in the event that this becomes an item
of interest for the legislature, so more information
will be coming soon on that.

Thank you for allowing me to share this update
with you today, and, at this time, I am happy to answer
any questions you may have.

CHAIRPERSON YEE: Great. Thank you, Diane, for
the updates.

Questions or comments, Members?

Okay. Thank you very much.

MS. DEATHERAGE: Thank you.

CHAIRPERSON YEE: All right. Members, we will
move to item number 6. This is the item related to
regulation matters. This is an action item. And let me
ask Ciro Immordino and Richard Tay to come speak on this item.

Good afternoon, gentlemen.

MR. IMMORDINO: Good afternoon. My name is Ciro Immordino, and I'm with Richard Tay, and we worked on the proposed regulation. We are both tax counsel in the legal division.

We are here to request permission to proceed with a formal regulatory process under the Administrative Procedure Act for proposed regulation 23663-6. I will briefly discuss why there was a need for the regulation, what the regulation does, and our process of working with the public in developing the regulation.

As background, Revenue and Taxation Code section 23663 permits the assignment of credits amongst members in the same combined reporting group. The statute includes a number of limitations though, including that corporations involved in a credit assignment must be in the same combined reporting group on certain key dates.

This leads to our regulation project. When corporate reorganizations have occurred, such as liquidations and mergers, the corporation holding credits often changes. The result is that taxpayers have uncertainty as to whether they meet the requirement of being in the same combined reporting group on the
required dates.

   For example, in the case of a merger, do taxpayers look at the group of the old corporation, which held the credits before the merger, or the group of the new corporation that survived the merger?

   We began this regulation project after we were contacted by taxpayers asking for clarification on these questions. Therefore, pursuant to authorities specifically authorized by the credit assignment statute, we began this regulation project.

   The goal of this regulation is to give taxpayers certainty so they can structure a corporate reorganization with full knowledge of how it will impact their ability to assign credits.

   On June 12th, 2014, we held the first interested parties meeting for this regulation. On that date, we also held the final interested parties meeting for our defective assignment regulations, which were the department's first major regulations.

   We focused our efforts on getting the defective assignment regulations through the formal regulatory process, as there was a strong need to provide clarification to taxpayers and because the project took significant staff efforts, given its classification as a major regulation.
Very good news we have received this week is that
the defective assignment regulations were approved by
the Office of Administrative Law and are now available
to give clarification to taxpayers. As the defective
assignment regulations approached completion, we were
able to again focus on this regulatory project.

Using practitioner feedback from the first
interested parties meeting, we drafted proposed
regulatory language, which we presented at a second
interested parties meeting on June 12th of this year.
At the second interested parties meeting, we also
provided a companion document, which gives a detailed
explanation of each provision in the proposed
regulation. So if taxpayers have questions about the
draft regulatory language, they can look at the
companion document to understand why we drafted the
regulation the way we did.

The proposed regulatory language contains clear
rules, which gives taxpayers certainty for exactly how a
corporate reorganization will impact future credit
assignments.

We have not received any concerns or suggested
changes to the proposed regulatory language.

We are also requesting permission to proceed with
a formal regulatory process to amend Regulation 23636-1
so that the definitions contained therein will also apply to the proposed regulation. This is simply done for efficiency so that the terms do not need to be redefined in a new regulation.

Finally, we note that we made minor formatting changes to the drafts submitted in your materials. We made these changes based on feedback we received from the Office of Administrative Law last week, based on the companion regulation.

Importantly, the language in the proposed regulation remains unchanged.

We believe that the proposed regulations provide important clarity to taxpayers. Therefore, we respectfully request permission to commence the formal regulatory process under the Administrative Procedure Act.

Thank you very much for your time and consideration. And Richard and I are available to answer any questions you have.

CHAIRPERSON YEE: Thank you very much, Ciro.

Questions, Members?

Okay. Thank you for elaborating on the gap between the two interested parties meetings. Appreciate the clarification.

Members, this is an action item to approve the
commencement of the formal rulemaking process.

Is there a motion?

MEMBER WONG–HERNANDEZ: Move approval.

MEMBER RUNNER: Second.

CHAIRPERSON YEE: Motion by Member Wong–Hernandez; second by Member Runner.

Without objection, that motion carries.

Thank you very much.

MR. IMMORDINO: Thank you very much.

CHAIRPERSON YEE: Thank you. Very well.

Next item is item number 7. These are administrative matters and we have Tiphanie Weiss and Jeanne Harriman, who will present the 2019/20 Budget Change Proposal, as well as contracts over a million dollars and action items for approval.

Good afternoon.

MS. WEISS: Good afternoon. Thank you. My name is Tiphanie Weiss. I'm the director of the Financial Management Bureau and I'm here with our chief financial officer, Jeanne Harriman, to present for your approval our 2019/20 Budget Change Proposals.

With your permission, we'll provide an overview of each of the proposals and then answer any questions you may have.

CHAIRPERSON YEE: Yes, please.
MS. WEISS: We have a total of seven proposals and I will go ahead and turn the time over to Jeanne. She will be providing the overviews for Proposals 1, 2, and 5.

MS. HARRIMAN: Thank you, Tiphanie.

FTB’s first BCP request is for resources for human resource activities. FTB is requesting $3.3 million and the conversion of 18 permanent intermittent staff to permanent staff positions and an additional 19 new positions to accommodate workload growth as well as new workloads.

In our work developing this proposal, two primary drivers were identified as really triggering the needs for these positions.

The first was, over the last 24 years -- 25 years, basically FTB’s staff has doubled and there has been little growth for positions, actually, in our HR staff. So comparing that to 2500 additional staff members within FTB, compared to four additional HR staff. So the growth in the HR staff was not comparable.

The other is externally driven, and that is related to substantial changes that continue to occur, whether it’s existing laws being amended and expanded, new laws being adopted that impact the HR world, or the
adoption of new statewide programs related to classification structures and requirements.

These additional resources will allow FTB to do the following: Decrease the related time to hire new staff, meet mandated task and time frames, align our classifications to new standards, ensure application of rules and procedures for the numerous bodies of laws and regulations to human resources, adequately engage in succession and workforce planning activities, and avoid unnecessary risk to the state as FTB is unable to accommodate these workloads.

Human resource activities are a foundational activity for any entity. Without adequate resources in this business area, the entire operations at FTB can be unduly jeopardized.

The second proposal deals with our customer service channels. This proposal has two components. The first component deals with requests for converting 61 permanent intermittent staff to permanent positions that are used in the customer contact center related to taxpayer services.

FTB has always historically had a large volume of perm staff to permanent intermittent staff in this business area. However, a recent review of ours showed that for the last five years, at least a large number of
our permanent intermittent staff have been working in
excess of hours typically associated with a permanent
intermittent employee, and the workloads have stabilized
more so than usual, and the workload is presenting
fairly stable throughout the year.

That's not to suggest there's still not peaks and
valleys in the workload. Filing season obviously
presents peaks and challenges associated with it.
However, there is less valleys that we are dealing with,
and these resources will help us fill in that gap.

These resources will allow us to continue to
focus a level of service consistent with what you
experience -- what we experience today, in the call
center. By converting these permanent intermittent
staff to permanent allows us to avoid retention issues
that are most commonly associated with permanent
intermittent staff and avoid running afoul of rules
associated with permanent intermittent staff engaging in
permanent work, rather than work that is seasonal in
nature or limited durations.

The second component of this request seeks an
additional 16 members of staff to adequately staff the
Tax Practitioner Hotline, where we service tax
practitioners and their questions. These additional
staff members will allow us to reach the 75 percent
level of access, which is fairly consistent with what
we've been able to do to date, primarily because FTB has
been funding these positions in the last two years, but
we can no longer continue to do so.

This proposal also asks for increased postage
funding to allow FTB to begin mailing out information
letters to certain taxpayers regarding their estimate
payments. We found in our study that a significant
amount of the calls coming into the Tax Professional --
Practitioner Hotline are related to requests of what is
my estimate payments that were made, or what is my
client's estimate payments that were made.

So we're hoping that by mailing out this
information, that will calm the call center, and then
these additional resources will further calm the call
center as well.

The third component of this request is that as
this mailing of the estimate payment letters matures,
there may be a necessity for FTB to go back and request
additional working staff to wait for full maturity of
that but still offer the 75 percent level of access. So
we put in some provisional language to accomplish that,
working directly with Finance to establish these
positions.

Customer service is a backbone of the work that
we do here at FTB. Good customer service allows resolutions of issues sooner and avoids taxpayer frustration and avoids increased costs for FTB if this issue remains unresolved.

I will now turn it back over to Tiphanie to discuss the third and fourth proposals.

MS. WEISS: Thank you.

The third proposal is the Local Area Network, or LAN, infrastructure refresh. It requests $6 million in the 2019/2020 fiscal year and $12,000 ongoing to address the refresh of the aging components that are reaching end of life and end of support within the LAN infrastructure. The LAN infrastructure is the heart of the Enterprise Network, supporting FTB's mission-critical operations.

The overall result of this refresh will reduce the risk that LAN infrastructure components will either fail or be compromised.

The next proposal is the Mainframe Enterprise Tape Library Refresh. It requests $7.2 million in the 2019/20 fiscal year to address the replacement of FTB's Mainframe Enterprise Tape Library and Direct Access Storage Device, or what we call DASD. The Mainframe Enterprise Tape Library and DASD provide the storage infrastructure that is essential to FTB's multiple
mission-critical tax and nontax systems. Manufacturers for FTB’s current Mainframe Enterprise Tape Library and DASD systems announced an end-of-market and end-of-support dates.

Purchasing these systems allows FTB to meet current and future mainframe storage back-up and recovery needs and mitigates risks associated with running a system past an impending end-of-market and end-of-support date.

I will turn the time back over to Jeanne for proposal 5.

MS. HARRIMAN: Thank you.

The fifth proposal that we have seeks staff for Withholding Services and Compliance Program. This BCP requests 20 positions and 1.8 million. The Withhold at Source business area assists withholding agents responsible for paying nonwage withholdings, as well as taxpayers who have remitted nonwage withholding.

The nonwage withholding you are most likely familiar with is that associated with sales proceeds related to real estate sales and withholding due from professional athletes or performing artists who perform services in California.

Annually, this program brings in over $2 billion to the State of California.
FTB is under resourced in this business area and has not been able to perform key functions necessary to effectively manage this program. In addition, 17 of those 20 positions FTB has been dedicating funding for this program in order to at least provide some level of service, but we are no longer able to do so.

This proposal, as well as the 17, is also asking for three new, to do a bit of expansions in some areas where we haven't been able to do so.

This request overall will allow FTB to appropriately fund -- be funded for education and outreach efforts focusing on providing quality data so that we can correctly match these payments to the taxpayers' accounts, engage in audit activities, work with withholding agents that have failed to remit the un-- the withholding that they have withheld, conduct mailing of annual notifications, timely assistance in error resolution identified during return processing, and answer the phone calls from the withholding agents or taxpayers who need assistance to resolve their issues.

With these additional resources, FTB will be able to conduct both proactive and reactive workloads in a manner sufficient to support this very important program.
Tiphanie will now discuss the final two proposals.

MS. WEISS: Thank you.

The next proposals are requests for a technical appropriation adjustment to transfer the franchise and income tax component of the Tax Appeals Assistance Program from the California Department of Tax and Fee Administration to the Franchise Tax Board.

The Tax Appeals Assistance Program was originally established by the Board of Equalization. And with the restructuring of the board and the transfer of the appeals process to the new California Office of Tax Appeals, this program moved to the California Department of Tax and Fee Administration. There’s not a suitable alignment for franchise and income tax appeal cases to be handled by the California Department of Tax and Fee Administration.

This proposal requests the authorization for two positions and $378,000 to transfer the franchise and income tax component of the program to the Franchise Tax Board.

Our final proposal is the Earned Income Tax Credit Age and Income Expansion. It requests 7.5 positions and $575,000 in fiscal year 2019/20 and $535,000 ongoing to implement the Earned Income Tax Credit Age and Income Expansion.
Credit expansion included in the governor's budget.

These positions are needed for prevention of improper payments, responding to taxpayer contacts, and receiving and keying additional documents anticipated as a result of the expansion.

We would be happy to answer any questions that you may have.

CHAIRPERSON YEE: Thank you very much.

Questions, Members?

Thanks.

Yes.

MS. STOWERS: A quick clarification and comment regarding item 6.

It's just to move over the income tax appeals, correct?

MS. WEISS: Correct. The franchise and income tax, the sales and use tax, would remain with California Department of Tax and Fee.

MS. STOWERS: And I realize that you were asking for two positions, but the individuals that will provide the services will be students that will not be employees of the Franchise Tax Board?

MS. WEISS: Yes, that is correct.

MS. STOWERS: But the direct report would be to the Taxpayer Rights Advocate?
MS. WEISS: Yes, that is correct.

MS. STOWERS: And if we do not do this --

MS. WEISS: The attorney, the tax counsel, and the support staff reports to the Taxpayer Right Advocate. The students are completely independent.

MS. STOWERS: They are independent.

MS. WEISS: Yes.

MS. STOWERS: If we do not do this, this program will go away, that CDTFA will not -- no longer have us there.

MS. WEISS: That is our understanding.

MS. STOWERS: Okay. Great. Thank you.

MS. WEISS: Thank you.

CHAIRPERSON YEE: Thank you. Member Wong-Hernandez, I think you are going to be refraining from --

MEMBER WONG-HERNANDEZ: Yes. (Unreportable cross-talk.)

CHAIRPERSON YEE: Thank you.

Any questions on this?

Okay. I have a few.

Regarding BCP number 1 and -- I got to think that some of these elements, with respect to enhancing our HR capacity to deal with these various elements aren't necessarily a new thing to the Franchise Tax Board.
Some are and some aren't.

And I guess my question is, is there kind of a statewide effort to look at some of these elements? And not -- if you don't know the answer, that's fine. But I am just curious if you can kind of flesh these out further to see whether there's broader attention to some of these -- some of these elements in the proposal?

MS. HARRIMAN: Yes. That's a great question.

So -- and one that we've been working with Finance on as well as CalHR --

CHAIRPERSON YEE: CalHR.

MS. HARRIMAN: -- and our discussions in regards to this BCP.

So CalHR has indicated in our discussions with them that there are some areas where they have, in fact, with the new policies adopted, that have presented numerous benefits to the State of California and employees, but they have, in fact, created additional workloads for the HR staffs.

CHAIRPERSON YEE: Right.

MS. HARRIMAN: And so there, I think, if I could suggest what they are saying, is they are aware of that and they may be engaging with Finance in later discussions, later on.

So one of the things that we found that was
perhaps unique to FTB, in our discussions between those entities, was that -- the related and correlating growth in our staff; the fact that our staffing levels have doubled almost in the last 25 years, but our growth in HR had only grown by four. And that was considered a fairly unique pattern compared to most state departments. And if you think, that growth didn't happen overnight. So we have been able to absorb quite an amount of work associated with new policies, new procedures, new laws, and so forth.

But in the last three years, in 13/14, we found that we needed to start augmenting these workloads with temp help funding. We have not been able to cease doing that. So it was kind of in 13/14, I would say, that we hit that tipping point. We tried to automate some things, which we successfully did. Tried to reduce that footprint on our own. And the BCP presented before you is kind of the leftovers that we just don't feel we're going to be able to -- to overcome --

CHAIRPERSON YEE: Sure.

MS. HARRIMAN: -- without being able to curtail workloads that really need to be accomplished.


And I'm glad that you are involved in
conversations with Finance and CalHR, because I do think this is becoming more apparent in other parts of state government as well.

So -- okay. Good.

And then with respect to the -- the Cal EITC expansion, is there any need for current funding in terms of getting the expansion?

MS. WEISS: We believe that we will be able to absorb the current year.


MS. WEISS: It is. It is, yes. So we are evaluating that right now, but we believe we will be okay for current year.

CHAIRPERSON YEE: Great. Okay. Thank you.

All right. And let's see. Let me -- I know you have got some contracts for us as well.

Members, do you want to approve the BCPs first or do you want a single motion on everything?

MEMBER RUNNER: I will make a motion to approve the BCPs.

CHAIRPERSON YEE: Okay. Great. Motion by Member Runner to approve the BCPs before us.

I will second that motion, with Member Wong-Hernandez not participating.
Without objection, the BCPs for 2019/20 are -- proposals are approved.

Thank you.

On to the contracts.

MS. WEISS: The contracts? Thank you.

We're seeking your approval to renew our software subscription and support contract for IBM software that is used to run multiple mission-critical Franchise Tax Board systems.

The current contract is set to expire December 31st, 2018, and the estimated one-year renewal is $7.5 million. If approved, we would work under Department of General Services rules to conduct a competitive bid.

Do you have any questions regarding the contract?

CHAIRPERSON YEE: I don't.

MS. WEISS: Thank you.

CHAIRPERSON YEE: Okay.

Hearing none, this is also an action item. Is there a motion?

MEMBER RUNNER: Move approval.

MEMBER WONG–HERNANDEZ: Second.

CHAIRPERSON YEE: Motion by Member Runner; second by Member Wong–Hernandez.

Without objection, the contract is approved.

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Thank you.

MS. WEISS: Thank you.

CHAIRPERSON YEE: Thank you both very much.

Members, we have item number 8, and this is a resolution for coverage for FTB volunteers. And we'll have Shane Hofeling present this item.

Good afternoon.

MR. HOFELING: Thank you.

Good afternoon, Board Members. My name is Shane Hofeling, and I am an assistant chief counsel of the Litigation Bureau of the FTB's Legal Division.

During our scope of the review of the FTB's workers' compensation coverage policy, we discovered that our coverage does not extend to the FTB volunteers, who directly perform services to the FTB, such as our unpaid student interns.

Under Labor Code section 3363.5, in order for these volunteers to be covered under FTB's workers' compensation coverage policy, our governing body needs to -- needs to adopt a resolution in order for these volunteers to be covered.

This coverage would only extend to volunteers who perform services directly to the FTB. As such, it does not extend to volunteers who provide services to taxpayers, such as our VITA volunteers.
Currently, some state agencies and boards, such as the Board of Equalization, currently include their volunteers under their workers' compensation coverage plan.

Furthermore, adding these volunteers under the FTB's workers' compensation coverage does not result in any significant additional costs to the department.

It goes without saying that the FTB's volunteers are an integral part of our family and they provide amazing services to the FTB and the citizens of California. As such, we're recommending that the Board adopt the resolution to provide coverage to these volunteers.

Thank you, and I'm happy to answer any questions you may have.

CHAIRPERSON YEE: Great. Thank you.

Questions, Members?

Hearing none, may I have a motion?

MEMBER WONG-HERNANDEZ: Move approval.

CHAIRPERSON YEE: Motion by Member Wong-Hernandez to approve the resolution.

(No audible "second.")

CHAIRPERSON YEE: Second by Member Runner.

Without objection, the resolution is adopted.

Thank you.
MR. HOFELING: Thank you.

CHAIRPERSON YEE: Okay. Let's see. Let's -- I believe we're on to item number 9, and this is the Executive Officer's Time, and I will look to Selvi Stanislaus.

EXECUTIVE OFFICER STANISLAUS: Nothing to report at this time.


Then we'll move to item number 10, and this is the Board Members' Time.

And let me just acknowledge that we do have a speaker for this item, and that is Dennis Loper, who has signed up to speak. Let me have him address the Board first, before I turn it over to Members.

MR. LOPER: Thank you, Chairwoman Yee. Good afternoon. My name is Dennis Loper. And I'm here speaking on behalf of Bechtel Corporation, a closely held corporation.

I last spoke to the board at the June board meeting and I asked that the board direct staff to allow public comment on a possible regulatory effort to bring some certainty that another state tax credit is applied to California residents who pay the Texas margins tax. At that time, I expressed concern that the staff has
been somewhat inconsistent in its use on the issue and, further, that staff recently changed its position to the detriment of any California residents who pay the Texas tax. We believe that the legislature intended the California residents to be allowed to qualify for the tax credit based on that used to calculate tax by each taxpayer.

In contrast, the staff's recent guidance declares a general rule, which does not take into account the application of the law to individual taxpayers.

Unfortunately, under the staff position, some taxpayers who would otherwise qualify for the tax credit will be denied the benefit intended by statute and pay the tax.

We believe this result is contrary to the plain language of the statute and the underlying legislative intent. While I appreciate that the Board is proceeding down the path for a regulatory solution, I would also ask that the Board consider supporting legislation designed to avoid double tax on California residents under these circumstances.

I am glad to answer any questions.

CHAIRPERSON YEE: Thank you, Mr. Loper.

Maybe just kind of a procedural question to legal.
And I understand, this is an issue that we are entertaining with respect to the rulemaking regulation calendar. But just in terms of the legislature matters that generally are before this Board for support or sponsorship, what's generally been the --

MR. LANGSTON: Thank you, Chair.

Typically at the December board meeting, we have a Taxpayer Bill of Rights Hearing. And part of that hearing is where industry representatives and individual taxpayers present their proposals for changes to the personal income tax and corporation tax law. That's part of the December meeting, we do that.

And as you point out, this week, staff will be including this on the rulemaking calendar, which we'll bring before your board on the December meeting.

So at that time, as you know, the rulemaking calendar is the beginning of the formal -- the informal regulatory process. We hold interested parties meetings so we can get input from industries on all sides, you know, about what the regulation -- what the regulation should say.

So those -- those are the two staff recommendations.

And I would point out that today, because this is not been noticed as an action item, it would simply be
an information item today.

CHAIRPERSON YEE: Okay. All right.

MEMBER RUNNER: I have a question.

CHAIRPERSON YEE: Member Runner, please.

MEMBER RUNNER: It -- just, again, process-wise, can -- again, if these come before us or items come before us in December, is there a difference for this -- for the FTB when they decide to sponsor a bill versus support a bill? Is there a process for that?

MR. LANGSTON: I can answer a little bit.

Historically, FTB will approve a legislative proposal, and if that legislative proposal becomes a bill without change, then it will be shown as supported by Franchise Tax Board.

In recent years, Franchise Tax Board has generally not voted to support specific bills as they go through the process, partly because of concerns about later amendments to those bills.

But in the -- in the somewhat distant past, the Board used to support bills at -- at board meetings with -- with legislative resolutions.

MEMBER RUNNER: So the bills that come before us in December will be those that are actually, then, sponsored by the Board.

MR. LANGSTON: There will be legislative
proposals that come before, that aren't bills yet.

MEMBER RUNNER: Right. Right.

MR. LANGSTON: If the Board approves them, then our legislative staff will try to find authors for those bills.

MEMBER RUNNER: But those would be bills that are actually, then, sponsored by.

MR. LANGSTON: Correct. Yes.

CHAIRPERSON YEE: Yes. And then, generally, they have to do with the operations of the Board, rather than anything that's -- that's more policy or tax expenditure-driven.

So -- and I think those have been just easier to track through the legislative process because they generally are more well-embraced. But -- but I don't think that precludes, Member Runner, any of us as members.

MEMBER RUNNER: Individually.

CHAIRPERSON YEE: Exactly.

MEMBER RUNNER: Okay. Thank you.

Okay. Other comments on this from staff?

I think, Mr. Loper, I'm going to ask you to do one thing. I know, in terms of your interest in pursuing legislation, perhaps maybe a little bit more development on your part. And I would welcome you
bringing back a proposal to the Taxpayer Rights -- Bill of Rights Hearing in December to see what shape that proposal is, and we can determine whether that's appropriate.

MR. LOPER: Certainly. We already have language that's --

CHAIRPERSON YEE: Submit it to the staff. But we would hope that you can bring it and present it at the Taxpayer Bill of Rights Hearing.

MR. LOPER: We will be glad to do that.

CHAIRPERSON YEE: And we will look at what the appropriate avenues are for pursuing that.

MR. LOPER: Thank you.

CHAIRPERSON YEE: Thank you.

Let's see.

So other -- other Board Member comments during Board Member Time?

Okay. And -- making history today. No closed session. Okay.

Any other members of the public who wish to address the board?

Hearing none, this meeting is adjourned.

Thank you very much.

(Proceedings concluded at 3:52 p.m.)

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CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings was reported in shorthand by me, Kathryn S. Swank, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of December 2018.

/s/ Kathryn S. Swank
KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061