STATE OF CALIFORNIA
FRANCHISE TAX BOARD

PUBLIC MEETING

FRIDAY, SEPTEMBER 23, 2022
1:34 P.M.

GERALD GOLDBERG AUDITORIUM
9646 BUTTERFIELD WAY
SACRAMENTO, CALIFORNIA

Reported By: CARLI N. MCKENNY, RPR, CSR 14086
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A P P E A R A N C E S:

BOARD MEMBERS

BETTY YEE
State Controller
(Chairperson of the Board)

ANTHONY EPOLITE
Deputy State Controller - Taxation

MALIA COHEN
Chairperson
Board of Equalization

GAYLE MILLER
Representative for Joe Stephenshaw, Director
Department of Finance

--oOo--

STAFF

SELVI STANISLAUS
Executive Director

VICTORIA RAMIREZ
Board Liaison

JOZEL L. BRUNETT
Chief Counsel

SHANE HOFELING
Deputy Chief Counsel

ERIN DENDORFER

MICHAEL BANUELOS

THI LUONG

YVONNE CRANKFIELD

JON KOSIEWICZ

STACY SMITH

SCOTT REID
APPEARANCES
(Continued)

STAFF

DENIS ARMSTRONG

--oOo--

PUBLIC PARTICIPANTS

BART BAER

--oOo--
FRIDAY, SEPTEMBER 23, 2022

SACRAMENTO, CALIFORNIA

--oOo--

CHAIRPERSON YEE: Good afternoon. The time is now 1:34 and this is the scheduled time for the meeting of the Franchise Tax Board. Let me turn to the board liaison to please call the roll to determine if a quorum is present.

MS. RAMIREZ: Member Cohen?

(No response.)

MS. RAMIREZ: Member Miller?

MEMBER MILLER: Here.

MS. RAMIREZ: Chair Controller Betty Yee?

CHAIRPERSON YEE: Here.

Thank you very much. At least two members are present. There is a quorum and the Franchise Tax Board is now in session. At this time, let me ask that all of you to please stand if you are able and join me in the Pledge of Allegiance.

(Pledge of Allegiance performed in unison.)

CHAIRPERSON YEE: Good afternoon again. Welcome to the Franchise Tax Board's board meeting.

The public will have a right to comment on each agenda item. If there are any 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. For today's meeting, members of the public who wish to comment via teleconference, please call 844.291.4185. Again, 844.291.4185, and enter the access code 6598443, access code 6598443. Please be aware that there is a short delay between the web live stream and the live event.

If there are any members of the public wishing to speak on an item and you're using a translator or a translator service, you will have six minutes to address the board. All speakers will be asked to identify yourselves for the record.

The first item, members, is the approval of the minutes, which we do have minutes of the June 9, 2022, board meeting. Let me just turn to Member Miller.

Any questions or comments on the minutes.

MEMBER MILLER: Nope.

CHAIRPERSON YEE: Okay. Seeing none, let me now ask if there is any member of the public who wishes to address the board on this item in person or on the teleconference line. We will first take members of the public on the phone line and then call on any member of the public in person.

PHONE MODERATOR: Members of the public on the
phone lines, if you would like to place yourself in the queue for public comment, as a reminder, you may press 1, then 0 at this time.

(No response.)

PHONE MODERATOR: No members of the public are queueing up at this time. Please continue.

CHAIRPERSON YEE: Thank you very much. Any members of the public who wishes to address the board in this auditorium?

Seeing no members of the public approaching the board, this item is properly before us. Is there a motion for approval of the minutes?

MEMBER MILLER: Move approval.

CHAIRPERSON YEE: Thank you, Member Miller. A motion by Member Miller. I will second that motion. Without objection, such will be the order. Thank you.

Item No. 2 will be a presentation on proposed updates to the Franchise Tax Board's Board Resolutions by -- presentation by Erin Dendorfer. This is an action item being presented for board approval. Let me turn to Ms. Dendorfer for the presentation.

Good afternoon.

MS. DENDORFER: Thank you. Good afternoon, Chair Yee and members of the board. I'm Erin Dendorfer and I'm a Tax Counsel IV in the Legal Division,
Technical Resources Bureau. I will be presenting proposed updates to board resolutions for your board's consideration and approval. The legal division performed a review of the operational board resolution and would like to present potential updates to four resolutions for your consideration.

As you know, board resolutions memorialize operational policies that apply to FTB. I will briefly summarize each of the resolutions we propose to update along with the proposed changes to those resolutions. One of these proposals would implement a dollar threshold at which the FTB would be required to provide a Certificate of Mailing. The other three proposals would modify the dollar thresholds at which the FTB is required to seek board approval for a specified action. These adjustments reflect the change of the time value of money between the time the resolutions were originally adopted and today.

I will start with the resolution regarding Certificates of Mailing for Notices of Action. For background on this proposed change, I'll provide some detail on what a Notice of Action is. When an FTB audit discovers a discrepancy between what a taxpayer paid and what was owed, the FTB issues a Notice of Proposed Assessment, or NPA, if the tax payer owes additional tax
penalties or interest. Within 30 days, a taxpayer can file a protest to dispute the NPA. Upon resolution of a protest, an NOA is issued. The NOA either affirms, revises, or withdraws the audit decision.

The existing resolution was adopted in 1988 and requires that all NOAs for protested deficiencies be mailed using a Certificate of Mailing. As you know, customer service and taxpayers' due process rights are some of the most important considerations for FTB. The proposed change does not impact those rights or a taxpayer's right to argue that they did not receive a Notice of Action.

This proposal, by establishing a threshold, would reduce staff resources spent on issuing Certificates of Mailing, but would otherwise not change any other process, such as ensuring that we are using the best address and that all items are mailed timely and securely. The change would require Certificates of Mailing for Notices of Action in the amount of $100,000 or greater. It would not impact the taxpayer's existing rights.

The next proposed update to the resolution regarding out-of-state travel. The existing resolution requires board approval of out-of-state travel in excess of $50,000 per budget year. The
threshold does not apply to travel necessary for
specific case representation or audits. The resolution
explains that specific case representation includes
legal collection and personnel proceedings.

The proposed change would increase the threshold
to $100,000 and would require board approval for travel
exceeding that amount. The proposal would also add
certain mission-critical tasks that require out-of-state
travel to the existing tasks that do not require
approval from the board.

In the last decade, new security and information
standards -- excuse me -- information protection
standards have been established at the federal and state
levels. As a result, the necessity for out-of-state
travel has increased to ensure that out-of-state offices
meet the new requirements and for ongoing compliance
with those new requirements.

In addition, this change would include travel
needed for staff to support performing specific case
representation and audit, including IT support, security
updates, and general administration relating to having
employees occupy a building. Also, the out-of-state
field offices require support typical of any state
office, such as human resources, facilities, health and
safety, and work site security.
FTB staff based here regularly travel to perform services at FTB's out-of-state field offices. The proposed change to the resolution would not include travel for these tasks in the determination of any reporting requirement exceeding the threshold.

The next resolution we are proposing to amend relates to contracts for materials, services, and supplies. The current resolution requires the executive officer to seek board approval before initiating procurement activity that would result in the award of a contract exceeding $1 million.

Today, most contracts in this category that come before the board are for renewing or extending licenses and are essential to FTB's day-to-day functions. FTB is thankful for the board's support on these items to ensure we are able to protect our ongoing business operations.

The proposed change to this resolution would do three things. First, it would replace the $1 million threshold and instead require the executive officer to obtain board approval for contracts that would exceed $2 million. Second, it would require the executive officer to provide written notice to the board for procurement activity that would result in the award of contracts greater than $1 million but less than...
$2 million.

Consistent with current board practice, if any member of the board has concerns with an item, the item could be brought before the board as a formal agenda item. Over the last five years, ten contracts would have fallen within these dollar amounts. Under this new proposal, information about those contracts would have been provided to the board in writing rather than at an oral presentation before the board.

Finally, these proposed changes would also replace outdated references to agency names that have changed since this resolution was adopted in 1998.

The last resolution that we propose to amend is regarding FTB's settlement authority. Currently, the Attorney General's office, or AG, represents the FTB in all matters of litigation. During the course of litigation, the AG and the taxpayer may agree to a settlement. After the AG has recommended settlement, the FTB comes to the board to seek approval of that settlement.

The existing resolution requires the executive officer to seek review and approval of these tax litigation settlements in which the taxpayer asks for $250,000 or more in tax and interest or that involve a legal principle having a substantial -- substantial
implications for taxpayers or the State.

The proposed change would also do three things. First, it would amend the dollar threshold at which the executive officer is required to seek board approval to $500,000. Second, it would require the executive officer to provide written notice to the board for tax litigations settlements for $250,000 or more and less than $500,000. And also consistent with current board practice, if any of the member of the board has concerns with an item, the item could be brought before the board as a formal agenda item.

Finally, the proposed change to this resolution would modify the requirement to be dependent on the total settlement amount instead of the amount the complaint seeks in settlement.

And that was a brief overview of the proposed changes to resolutions for your consideration, and I would be happy to answer any questions you may have.

CHAIRPERSON YEE: Thank you, Erin, for that presentation.

Members, questions or comments on the resolutions?

MEMBER COHEN: Good afternoon, everyone.

CHAIRPERSON YEE: Member Cohen, please.

MEMBER COHEN: Thank you. Question: Are
you taking comments on all four?

    CHAIRPERSON YEE: I'll take comments on all four, but for purposes of the questions, how about just identifying the resolution and you can -- concerned with.

    MEMBER COHEN: Sure. Sure. Thank you very much.

Thank you for the presentation. I appreciate it. I actually just had a couple questions for -- just for clarification. Okay.

    So one of the things that I try to do is always to be consistent with my process of processing information and then the votes that I'm taking, and I did have a couple questions just about the -- about the increase of -- hold on a minute -- the Certificates of Mailing for Notices of Action, the first resolution that you were discussing, and you made a presentation on.

What really spurred this change, this policy change? Was there an incident or something that triggered this recommendation or --

    MS. DENDORFER: No.

    MEMBER COHEN: -- an annual review? I just want to know what the ideology, what the thinking was behind it.

    MS. DENDORFER: It was just one of the
opportunities that FTB saw to kind of streamline the process a little bit more and save some State resources that are spent on sending these notices -- or providing Certificates of Mailing. And just as background, the Certificate of Mailing is just proof that something was mailed, not actually proof that something is received. So yeah, it was just -- it was just a conservation of resources.

MEMBER COHEN: Okay. And then the second one, the out-of-travel State approval, there is a carve-out that specifically excludes travel for audit and specific case representation. What is the rationale behind that carve-out?

MS. DENDORFER: That carve-out is actually in the existing resolution, and I -- part of that is because we do have out-of-state offices and FTB performs audits in other states, and it's also a conservation of resources to have auditors located in other states that are able to travel more easily to taxpayers that are located out of state as well.

MEMBER COHEN: Okay. So that -- those are the two primary questions that I had.

I have got some statements if I may --

CHAIRPERSON YEE: Sure.

MEMBER COHEN: -- before we take a vote, if I
CHAIRPERSON YEE: Yeah.

MEMBER COHEN: So as a member of the Franchise Tax Board, I've been a consistent proponent for maximum services to taxpayer and maximum transparency. I think we all talk about that often, and we predicate our business on those principles. The Certificates of Mailing for Notices of Action, also known as NOAs, I'm a little concerned, and hear me out.

So the Franchise Tax Board, the Mission Statement clearly states that our mission is to help taxpayers file timely and accurate tax returns and pay the correct amount to fund services important to Californians. And so what concerns me is that the first proposal to eliminate, in a way, by Certified Mail just sends, like, a message that those that are able to afford a lawyer and a lobbyist and are able to basically have business that exceed $100,000, their -- their business is more important, therefore worthy of a notification.

And I'm concerned that we are sending a message to everyday taxpayers such as myself, and perhaps some of you that are in this room, that -- that it is just not -- a less -- takes a less of a precedence, less importance. Certified Mail, quite honestly, serves as a
visual -- right? -- that this is not junk mail, open it. And I'm just concerned that -- that taxpayers who may owe smaller amounts of taxes and interest, that they deserve the same amount of notification as taxpayers with larger obligations to receive.

So I just wanted to go on the record. I'm not trying to sway people's votes or anything, but I wanted to express my -- my rationale, because I will be voting against the resolution, and I wanted to be on the record just so you could understand where I am coming from.

The second one, for the out-of-state approval -- and again, standing in line with our foundational principles that this board operates with transparency, and our goal is to maintain public trust and confidence. And I believe the second proposed update for the board resolution -- and this is the one to raise the threshold of approval from travel from 50,000 to 100,000 to make our operations less transparent, I'm a little uncomfortable with this one.

And the reason why I'm uncomfortable with that, because I just feel like it is inconsistent with some of our commitments to be transparent and maintain public trust. When things are coming before us, it allows more transparency. People are able to hear our decisions, hear our thought process, and then be able to follow our
decision.

And the third one -- the third one is -- is a contract for procurement and activity of in excess of $1 million. And again, this is much in the same spirit of the last one. By restricting the board's approval requirement for contracts between 1 million and $2 million, the board members -- I think we would be depriving ourselves of the responsibility of examining the performance metrics of procurements between $1 million and $2 million in a publicly-noticed forum.

Again, these FTB meetings are also a way that we inform the public of our work, and so that is why I am just hesitant to support the resolution that would restrict, in my opinion, another -- an opportunity to be transparent.

And then finally, this is the tax litigation settlement authority. Again, I believe that this proposal review -- reduces our -- our -- our oversight authority of tax litigation settlements, which again, I believe is essential to the part of our -- to part of our duties.

So I want to say that I'm not going to be supporting this, and this is not a reflection of the hard work of the board staff or of the executive staff. This is certainly -- based on the presentation you have
done, your complete competencies, you have made intelligent and informed conclusions. But I am just going to be voting no on the resolutions and wanted to just acknowledge the hard work that has been presented before us. Thank you.

CHAIRPERSON YEE: Thank you, Member Cohen.
Any other member comments or questions?
Okay. Let me see if there are now members of the public who wishes to address the board on this item. Let's first take members of the public on the phone line and then followed by any members of the public in person on this item.

PHONE MODERATOR: Members of the public on the phone lines, if you would like to place yourself in the queue for public comment, as a reminder, you may press 1 and 0 at this time.
(No response.)

PHONE MODERATOR: No members of the public are queueing up at this time. Please continue.

CHAIRPERSON YEE: Thank you very much. Let me first thank you for the presentation.

Thank you, Member Cohen, for your comments.
You know, what I will say is having served on this board for a number of years now, many of these resolutions are before us just because they have not had
a chance to be reviewed to be updated for, frankly, the
cost of doing business. And so -- but as Erin mentioned
in her presentation, anything that any of us sees, as a
member of this board, can also be brought forth as a
matter of discussion publicly. So the diligence and
scrutiny over these is on us.

But I do think the staff will recognize that
some of these haven't been changed for actually a couple
of decades. So to be able to kind of be caught up with
the 21st century is actually nice.

But also, I think with respect to transparency,
I think that's all of us just exercising that to the
highest degree, so that's on us. That's on our -- the
way that we ask questions, the way we scrutinize these
proposals when they come before us. I know Mr. Banuelos
will be talking to us about some contracts today, and to
the extent that we have questions and really want to use
this opportunity during this board meeting to continue
our diligence on them, I think that's totally
appropriate.

So I agree with you with respect to always
upholding the highest level of transparency and
accountability, but we also have a business to run.
I -- it is a little frustrating to not be able to kind
of just understand that the cost of doing business has
gone up and we are limited in terms of just the
efficiency of what we can do to keep up with, you know,
the workload that we have before us. So I will be
supporting these resolutions.

And at this time, let me just see if there is a
motion to approve the resolutions.

MEMBER MILLER: I move approval -- oh, I'm
sorry.

CHAIRPERSON YEE: Excuse me. I'm sorry. Let me
see if there is any public comment in the auditorium
here.

MR. BAER: Hello. Madam Controller --

CHAIRPERSON YEE: Yes.

MR. BAER: -- thank you. I'm Bart Baer, now
Chief Tax Counsel with the California Taxpayers
Association, recently retired from Deloitte. And I was
just saying now that I'm on a fixed income and working
part time, $100,000 threshold for the Certificate of
Mailing on Notice of Action, if I did have deficiency on
something, is a fairly big amount. So if something
happens in the mail and do not get the notice and miss
other steps, I should be taking to continue to challenge
the assessment, that's a problem.

One question I had was, you know, for smaller
taxpayers, what would be the process for monitoring the
actions by the protest hearing officer, but for -- but for receiving the notice? I mean, if there were a glitch, is there a way for the taxpayer to kind of monitor that? Just -- I'd like to better understand that.

But I do think that we think that, you know, there is all kinds of evidentiary problems when there has been a mailing and there isn't any proof of it. I have dealt with that in my own practice. And so I would encourage that we continue to keep the status quo on this notice process. Thank you.

CHAIRPERSON YEE: Thank you very much.

Erin, can you comment with respect to the cases that are below 100,000?

MS. DENDORFER: Definitely. There are cases below $100,000, definitely. But I do want to just bring up a slight distinction. There is a Certificate of Mailing process and a Certified Mail process. So the Certificate of Mailing process just establishes that a document was mailed. It does not actually document that it was received. The Certified Mailing process would do that.

So when we were looking at this process, it is -- excuse me. So a Certificate of Mailing is a tool that establishes that the NOA was mailed, and it doesn't
actually take away any of the rights of a taxpayer to
dispute whether something was mailed or not. So whether
it is included with the mailing or not, it doesn't
affect the taxpayer's rights.

But FTB, just when we looked at this, we thought
it would be in the State's best interest to retain the
evidentiary tool that we use to establish that something
was mailed in the higher-dollar-value cases, and for
administrative ease and just conservation of staff
resources, remove it for the lower-dollar value. But it
is more of an evidentiary tool that FTB has to show that
FTB mailed something. It doesn't show that anything was
received.

MEMBER COHEN: May I ask what is the cost
savings?

MS. DENDORFER: The cost savings are not that
significant. It is under $1,200.00, I think over the
last three years.

MEMBER COHEN: Okay. Thank you.

MS. DENDORFER: I'm sorry. That's in one year.

MEMBER COHEN: So we are changing the policy for
an item that doesn't have significant cost savings?

MS. DENDORFER: That's the actual cost of the
mailing, and that doesn't include the staff resources
that are required to go through that process.
MEMBER COHEN: I see. Do you know that figure for the staff resources?

MS. DENDORFER: I do not have that figure handy, but we can look into that and provide it.

MEMBER COHEN: Thank you.

CHAIRPERSON YEE: This is an issue that has -- when the Board of Equalization did have the jurisdiction of hearing Franchise Income Tax appeals -- was an issue that came up with respect to just evidence of these mailings having been made by the Franchise Tax Board.

So -- and I think part of these resolutions is to try to at least set an expectation of when we would be utilizing these Certificates of Mailing so that, for these higher-dollar cases, that expectation is set. As Erin stated, it does not indicate whether the notice has been received, but it at least establishes that for the State.

And I -- I agree that we are trying to provide the highest level of taxpayer service. We also have the interest of the State to protect, as well, so that is a balance. But that was just to raise up that that was an issue that came up frequently during our -- our tax appeals.

MEMBER MILLER: If I may, Madam Chair.

CHAIRPERSON YEE: I'm sorry?
MEMBER MILLER: If I may.

CHAIRPERSON YEE: Yes, please, Member Miller.

MEMBER MILLER: Thank you. Just on that -- on that point about the balance of the State resources, I think there is three things we are protecting: taxpayers, always, first, and then making sure that -- that while we are protecting taxpayers, we are consistent with expectations and what they can expect -- and I think the Franchise Tax Board actually does a really good job letting taxpayers know what is coming -- and then also State resources, so that we are using our resources in a way to the biggest benefit so that -- and I do think that, in fact, to the counsel from Cal Tax's point, I actually think that is what serves taxpayers best is when we have consistent rules that are easy to understand and easy to follow, and I think that's what we are doing here. And I agree that these are -- these have been a long time coming in terms of the changes we are making.

So when you're ready, Madam Chair, I'm happy to move -- are you doing it separately or may I move all four resolutions at once?

CHAIRPERSON YEE: Why don't we -- are you going to be -- Member Cohen, are you going to be looking to vote en masse on these or --
MEMBER COHEN: Yes, we can vote -- I'm voting them down. We can bring them together.

CHAIRPERSON YEE: Okay. So we'll take them up together, Member Miller.

MEMBER MILLER: Great, thank you. And when you're ready for that, I'll move approval.

CHAIRPERSON YEE: Okay. I will entertain that motion, then.

It has been moved by Member Miller to approve the four resolutions before us. I will second that motion. Let me just ask for roll call, please.

MS. RAMIREZ: Member Cohen?

MEMBER COHEN: No.

MS. RAMIREZ: Member Miller?

MEMBER MILLER: Aye.

MS. RAMIREZ: And Chair Controller Betty Yee?

CHAIRPERSON YEE: Aye.

That motion carries. The resolutions are approved. Thank you very much.

So next, members, we will move on to Item No. 3. These are administrative matters. First, we will have Michael Banuelos present the contracts over a million dollars and a facility action item, both of which are action items, and we will have, then, Thi Luong will present the 2023-'24 budget change proposals. And I
know, Member Miller, you will be abstaining from those.

So Michael, you're on deck.

MR. BANUELOS: Okay. Good afternoon, Madam Chair and board members. My name is Michael Banuelos, and I'm the director of the Franchise Tax Board's Procurement Bureau. I'm here today to present four proposed contracts over $1 million for the board's approval. I'm also going to present one facilities action item. First, I will present the contracts, and then I will present the facilities action item.

Our first request seeks approval to renew our maintenance agreement for Cisco hardware and software products. FTB's network is comprised of multiple Cisco products, ranging from telephones, network switches, routers, firewalls, voice and video equipment, and security equipment. Many critical public-facing applications, including MyFTB, Web Pay, and CalFile rely on our network.

Without this maintenance agreement, we would be unable to maintain our critical network infrastructure. Our existing agreement expires in October of 2022, and we are pursuing a one-year agreement for approximately $1.2 million.

Our second request seeks approval to renew our license agreement for VMware software products. VMware
is a software utilized to virtualize and run over 1600 FTB servers and provide desktop functionality to our employees. FTB's external-facing services -- electronic and paper filing, bank deposits, e-mail, and authentication systems -- rely on the software under this contract. Our existing contract expires in December 2022, and we are anticipating a one-year agreement estimated near $1 million.

Our next request seeks approval to renew our software subscription and support contract for IBM software products. IMB's Passport Advantage program is one of IMB's programs geared towards larger organizations. It keeps licenses, subscriptions, upgrades, and technical support under a standard set of agreements. Without this agreement, several of our mission-critical applications, including our accounts receivable collection and case management systems, will be unavailable, thus limiting our ability to process tax returns and serve taxpayers. The current contract will expire in December 2022 and the estimated one-year renewal is $12.5 million.

Our final request seeks approval to conduct a procurement to replace our uninterrupted power supply and power distribution units in network closets located in FTB's central campus and our field offices. These
are also commonly referred to as UPSs and PDUs. We have
a large investment in technology, and proper power
management is also a critical element in keeping our
systems running and providing service to taxpayers.

UPS and PDU equipment deliver power to FTB's
network and telecom devices in the case of a power
failure, and also protect our equipment from anomalies
such as power surges or voltage drops. If there's a
power failure, the UPS and PDU equipment allow our
telecom and network equipment to continue running long
enough for generators to engage or until a proper
shutdown can occur. If a proper shutdown does not
occur, there is the potential the devices may not
restore gracefully and may require manual intervention
or may even be damaged.

Our existing equipment is aged and coming to the
point where it will no longer receive vendor maintenance
and support. The estimated cost to replace our aging
equipment is approximately $1.3 million.

At this time, I am respectfully requesting your
approval of these procurements and would be happy to
answer any questions you may have.

CHAIRPERSON YEE: Thank you very much, Michael,
for that presentation.

Questions or comments, members?
MEMBER COHEN: No questions.

CHAIRPERSON YEE: Okay. All right. Let me -- and you have a facilities item also, yes?

MR. BANUELOS: Yes, ma'am.

CHAIRPERSON YEE: Okay. Why don't you present that as well.

MR. BANUELOS: The next item I am presenting for your approval is a facilities action item related to our Santa Ana field office.

Our Santa Ana field office houses audit staff as well as accounts receivable management, also known as ARM, staff. Each area has their own lease, and both leases expire in June of 2023. We are seeking approval to submit a request to Department of General Services to explore options to move both units within the Santa Ana area.

Currently, the Santa Ana field office has approximately 53 audit staff. The audit suite is impacted by overstaffing. There are 36 workstations for 44 auditors, and six offices shared by eight supervisors and managers. In addition, we expect more redirected positions to this location due to recruitment efforts.

The audit division would like to renew the lease at the same facility but would like to look for a bigger space commensurate with the number of staff.
The ARM office houses approximately 40 public service and collection staff. ARM would like to explore the possibility of co-locating with other similar State agencies with public-facing services. If an adequate space is not identifying -- identified, ARM would like to renew -- will look to renew the lease in the current facility. In working with DGS, we will consider projections based on the State's telework policy, recognizing the need based on office-centered and remote-centered employees.

At this time, I am respectfully requesting your approval to submit this request to DGS and would be happy to answer any questions you may have.

CHAIRPERSON YEE: Thank you very much for that presentation.

Questions or comments on this item, members? No? Okay.

Let me stop here and see if there are any members of the public who wishes to address these items. This is Item 3A under "administrative matters," the contracts over $1 million, as well as Item 3B, the facility action item related to the Santa Ana field office.

We'll first take comments from members of the public on the phone, followed by those in the room.
PHONE MODERATOR: Members of the public on the phone line, if you would like to place yourself in the queue for public comment, this is a reminder, you may press 1, then 0 at this time.

(No response.)

PHONE MODERATOR: No members of the public are queueing up at this time. Please continue.

CHAIRPERSON YEE: Thank you.

Any members of the public in the auditorium who wishes to address the board on these items? Seeing no one approaching the board, these items are properly before us.

May I have a motion on them, please.

MEMBER COHEN: So moved.

CHAIRPERSON YEE: Okay. We have a motion by Member Cohen to approve these items under 3A and 3B. Is there a second?

MEMBER MILLER: Second.

CHAIRPERSON YEE: Second by Member Miller.

Without objection, such will be the order.

Thank you very much.

MR. BANUELOS: Thank you for your time and your support.

CHAIRPERSON YEE: Next, we'll move to the 2023-'24 budget change proposals and let me turn to Thi
for that presentation. Good afternoon.

MS. LUONG: Good afternoon. Thank you so much. My name is Thi Luong, Financial Management Director at the Franchise Tax Board. I'm here today to share with you and to seek your approval for FTB's six fiscal year '23-'24 budget change proposals. I will provide a brief overview of each proposal, and then answer any questions you may have.

Our first proposal is for the Enterprise Data to Revenue Phase 2, also known as EDR2. The start of fiscal year '23-'24 will see FTB enter into the third year of the EDR2 project. We will continue to build on the foundation set by EDR for centralizing technology solutions that support our key business functions. EDR2 will expand enterprise case management and modeling services for audit, filing enforcement, and accounts receivable functions, as well as expand customer service tools.

Following the statewide process to support funding for larger projects, an annual BCP is required for new costs related to that year. This year's proposal requests an augmentation of 135 million and includes funding for 41 permanent and 31 limited-term positions. The request also includes 116.5 million for payment to the solution partners. Costs within this BCP
can be ongoing, limited term, or one time, as noted within the BCP narrative.

During the third year, FTB is requesting resources to support various stages of website enhancements, modeling, enhanced data capture, data management, and oversight functions such as independent verification validation, quality assurance, and an independent security assessment.

Our second proposal, return processing technology support, requests 29 positions and 4.9 million, beginning in fiscal year '23-'24 and ongoing, to maintain and improve existing mission-critical applications and services that support our return processing functions.

FTB's processes are underpinned by technology. 87 percent of FTB's tax returns are processed through automation; 83 percent of FTB's personal income tax collection accounts are resolved through automated collections; and finally, 80 percent of FTB's tax return payments are electronic.

Over the past several years, FTB's technology services division, TSD, has consistently been asked to implement new changes and adopt new workloads in support of FTB's return processing, through either legislative change or other internal change requests. At the same
time, ongoing support and maintenance of FTB's systems and services have also increased due to complexity in fraud detection and validation needs, exponential growth in the amount of data acquired and consumed, and increased taxpayer demand for self-services.

As a result, TSD is experiencing critical resource gaps impacting return processing workloads. This augmentation will enable FTB to reduce the risk of adverse impact to return processing workloads, enhance our ability to react to change, and make return processing easier.

Proposal three is essential service and stakeholder support gap. This proposal requests $2.5 million and 13 positions beginning in fiscal year '23-'24 and ongoing, to enable the Franchise Tax Board to engage in critical support functions for internal services and external stakeholders.

Within FTB, there are multiple areas to support core services for all of FTB. These business areas provide expertise and services in the areas of revenue estimation, budgeting, legislation, project oversight, procurement, talent management, and equal opportunity laws. Workloads in these business areas have continued to grow in both volume and complexity over the last five years.
Deficient staffing levels for support functions prevent FTB from responding timely or adequately to external and internal requests for services. FTB's inability to complete critical support work efforts and products could jeopardize key efforts of the administration and impact FTB's ability to complete essential work in the most effective manner. This augmentation ensures FTB operations are strong and allows for optimal service levels for all Californians trying to comply with filing and payment obligations.

Next, the digital workflow management proposal requests 2.8 million for two permanent positions, one limited-term position, and software costs in fiscal year '23-'24 to replace obsolete and custom-coded solutions with a new enterprise-class low-code platform that will reduce risk and improve service delivery for internal and external customers.

FTB's current tools are a mix of outdated technologies, solutions by various vendors, and in-house custom-coded solutions. These disparate tools and solutions create bottlenecks that slow the delivery of services and result in the need for increased operational support.

This augmentation will refresh and realign tools to enable FTB to leverage prebuilt low-code solutions.
with repeatable workflows. This will enable FTB to sustain expected levels of customer service for internal business users, and better position FTB to meet the needs of external stakeholders with solutions that are secure, quick to implement, and have lower ongoing maintenance needs.

Proposal five is for security and access management. This proposal requests $1.8 million for two permanent positions and software costs in fiscal year '23-'24, and ongoing, to reduce security risks by implementing a solution to add privilege access management capabilities and improve login security by implementing multifactor authentication into FTB's public web applications.

Updating FTB's security and access management tools will allow staff to effectively monitor the entire network and provide insights into which users and taxpayers have access to what data. It is the best way to protect FTB's accounts, both internal and taxpayers', from attacks by malicious parties who would attempt to gain access to FTB's confidential and sensitive data. Expanding the use of these security tools will also bring FTB into compliance with current security compliance requirements.

Our final proposal is for the high-speed printer
refresh, and requests $2.2 million in fiscal year '23-'24 and '24-'25 to replace two high speed print systems and software that is used to print FTB's notices, bills, and correspondence. The print systems and software reach end of life in December of 2024 and must be replaced. One of our current print systems was implemented in 2005 and the other was implemented in 2015. Print systems are generally refreshed every seven to ten years.

While FTB has implemented many paperless options, FTB continues to provide printed notices, bills, and correspondence to California taxpayers and customers. The new print systems will enable FTB to provide products and services to California taxpayers and generate revenue for the State of California.

At this time, I would like to request your approval of our proposal. Thank you for your time and support, and happy to answer any questions you may have.

CHAIRPERSON YEE: Thank you, Thi, for the presentation of the budget change proposals.

Questions or comments from members?

Member Cohen?

MEMBER COHEN: Yes, thank you. Overall, I'm prepared to support the BCPs that are before us, but I do have a question. This is regarding the security and
access management BCP that you went over.

In the entire document in the presentation, they have a nice list of pros and cons, and I just wanted to talk a little bit about some of the cons or some of the things that are documented that you all -- the staff has flagged as having some concerns.

The first one is FTB will not be able to leverage modern security and access management tools to mitigate emerging and evolving IT threats. So if I'm reading this correctly, you're saying that if we do not receive the BCP, this could potentially happen.

MS. LUONG: Yes, ma'am.

MEMBER COHEN: Okay, thank you. That's all I really needed.

MS. LUONG: Okay.

MEMBER COHEN: Thank you. Just a clarification on how to interpret this document.

MS. LUONG: Yeah, so if I may provide some clarification on that.

The short answer is "yes." So FTB already has many modern tools today, right? But in the case of our privilege access management that we are speaking of here, so some of our processes right now are automated while others are manual. So by implementing a fully automated solution, we are able to make sure that we are
on top of things even faster.

MEMBER COHEN: And these positions -- I think it was 1.8 million for two full-time persons, right?

MS. LUONG: Uh-huh.

MEMBER COHEN: Does that also include healthcare benefits or was that just salary? Is that the full compensation package?

MS. LUONG: So our costing, it includes the entire package. So it does include salaries and benefits. And just to be transparent, the proposal also includes the software cost.

MEMBER COHEN: Thank you.

CHAIRPERSON YEE: Thank you, Member Cohen.

All right. Let me turn and see whether there are any members of the public who wishes to address the board on the budget change proposals. First take members from the public who are on the phone line, and then followed by any members of the public here in person.

PHONE MODERATOR: Members of the public on the phone lines, if you would like to place yourself in the queue for public comment, as a reminder, you may press 1 then 0 at this time.

(No response.)

PHONE MODERATOR: No members of the public are
queueing up at this time. Please continue.

CHAIRPERSON YEE: Thank you very much. Are there any members of the public who wishes to address the board on these items in the room here?

Okay. Seeing no one approaching the board, this matter is properly before us for approval. May I have a motion, please.

MEMBER COHEN: I will make that motion.

CHAIRPERSON YEE: Okay. Motion by Member Cohen to approve the proposed -- the budget change proposals as presented. I will second that motion.

Please call the roll.

MS. RAMIREZ: Member Cohen?

MEMBER COHEN: Aye.

MS. RAMIREZ: Member Miller?

CHAIRPERSON YEE: Member Miller is not voting on these items.

MS. RAMIREZ: Chair Controller Betty Yee.

CHAIRPERSON YEE: Aye.

Thank you very much. That motion passes. And thank you, Thi, for the presentation.

MS. LUONG: Thank you for your support.

CHAIRPERSON YEE: Thank you.

All right, members, Item No. 4 is our next item. And this is a presentation on digital currency payments,
and this will be presented by Yvonne Crankfield as well as Jon Kosiewicz. And this is an informational item, members, so we are prepared to receive the presentation.

Good afternoon.

MS. CRANKFIELD: Good afternoon, Madam Chair and board members. My name is Yvonne Crankfield, and I'm the Assistant Bureau Director in the Processing Services Bureau. And joining me is Jon Kosiewicz, the Assistant Bureau Director in the Financial Management Bureau.

In our presentation, we will share an overview of digital currency, our research on cryptocurrency, and digital payment options for tax liabilities.

Digital currency is any currency, money, or money-like assets primarily managed, stored, or exchanged on digital computer systems, especially over the Internet. Types of digital currency include cryptocurrency, virtual currency, and central bank digital currency. The focus of this presentation covers cryptocurrency.

Cryptocurrency exists only in the digital format, meaning there is no physical representation. It was introduced as Bitcoin in 2008. Today, there are more than 10,000 different cryptocurrencies worth an estimated $1.3 trillion. Cryptocurrency coins are created through a process called "mining." These new
currencies use a decentralized recordkeeping technology called "blockchain."

Blockchain technology is similar to an accounting ledger or database; however, instead of being stored on a single system, blockchain is stored simultaneously on thousands of computer nodes worldwide. A blockchain collects information in groups known as "blocks." Each block in the chain contains records of hundreds or thousands of transactions for the type of cryptocurrency for that specific blockchain. When a block is created -- excuse me -- when a block is created, it has a storage limit. When it is filled, it is closed. This block is now linked to the previous block, forming a chain. These completed blocks on the blockchain cannot be changed. The entire history of all of the transactions can be reviewed on the blockchain.

Blockchain has a potential nonfinancial application and can be useful in any application where data security is essential, like vital records, commercial business, supply chain, and property transactions. However, blockchain can introduce new challenges. For example, it could exclude individuals who do not have Internet or computer access.

On March 9, 2022, President Biden issued an executive order on ensuring responsible development of
digital assets, in which he called for a broad review of
digital assets including cryptocurrency. Last week, the
White House released its first-ever framework on what
cryptocurrency regulation in the U.S. should look like.
The framework follows the executive order and outlines
ways in which the financial services industry should
evolve to make transactions easier, as well as crack
down on fraud in the digital asset space.

On May 4, 2022, Governor Newsom issued executive
order N-9-22. Under this executive order, California
will begin the process of creating a regulatory approach
to spur responsible innovation while protecting
California consumers, evaluate how to deploy blockchain
technology for state and public institutions, and build
research and workforce development pathways to prepare
Californians for success in this industry.

This executive order is beyond the scope of this
presentation, but it is noteworthy to highlight the
State's goal to explore cryptocurrency blockchain
technology as we are continuing to study digital
currency payment options. We will continue to monitor
the outcome of these executive orders.

While awaiting federal and state guidance and
regulations, through our research, we identified
significant volatility that exists in this industry. We
would like to share some of our findings.

Cryptocurrency is not financially backed by the Federal Deposit Insurance Corporation or similar body. Since the beginning, the value of cryptocurrency has continuously fluctuated with wilder swings than the stock market. Most of the available cryptocurrencies have values based on popularity and the level of effort required for mining. However, some have values based on other criteria, like the price of gold or silver. Some are based on fiat currency, like the U.S. dollar or Euro. Cryptocurrencies that have prices based on other criteria are known as "stablecoins." For some, stablecoins offer protection from volatility.

We found that having a cryptocurrency payment option could impact people who don't have access to a bank or companies who can't use banks to do business. This includes unbanked and under-banked households as well as businesses in cash-based industries. Both unbanked and under-banked taxpayers might find cryptocurrency an appealing payment option.

Benefits for these taxpayers could include convenience and an alternative for those lacking confidence in the banking industry; however, cryptocurrencies can introduce challenges. For example, cryptocurrency holders' exchange or conversion fees can
be high and unpredictable. It could exclude individuals who do not have Internet or computer access, and an undefined regulatory requirement may raise unknown impacts.

The demographics of the under-banked community could be influenced by income, education, age, race, ethnicity, and income volatility among other factors. We cannot measure the population of taxpayers who would be able to use cryptocurrency as a viable payment option for tax liabilities.

We reached out to other states through the Federation of Tax Administrators to see what other states are considering regarding the acceptance of cryptocurrency for tax liabilities. We received a few responses indicating they have no current plans or are in the process of information gathering.

The State of Colorado began accepting cryptocurrency payments this month on September 1st. The State of Ohio accepted cryptocurrency for a brief period and has subsequently discontinued acceptance. In addition, the IRS does not currently accept digital payments for tax liabilities.

I will now hand it over to Jon to discuss digital payment options.

MR. KOSIEWICZ: Thank you, Yvonne.
FTB currently accepts credit card payments under California Government Code Section 6162 and Revenue and Taxation Code Section 19005, which authorizes the acceptance of other payment devices. These code sections could allow digital payment options without additional legislation.

Accepting digital payments would require further analysis and updates of FTB's complex accounting systems, public education and communication, and training of FTB staff. FTB would need to convert digital payments into U.S. dollars before they could be deposited into one of our approved bank accounts, enabling taxpayers' accounts to be credited.

One way to convert cryptocurrency into U.S. dollars is through a third-party solution. This would be handled similar to how credit card payments are processed today. Like credit card payments, any transaction fee for conversion would be passed on to the taxpayer. However, with cryptocurrency transactions, these can vary depending upon the type of digital currency being converted. Additional research is needed regarding regulating third-party processors and digital currency exchanges.

There are regulatory and environmental factors to consider with cryptocurrencies. Cryptocurrency
exchanges lack federal oversight, fall under the regulatory scope of the Bank Secrecy Act, and must register with the Financial Crimes Network, which means that exchanges are subject to anti-money laundering and know-your-customer rules.

The mining of cryptocurrency uses millions of computers that require large amounts of energy. According to the University of Cambridge, in 2020, Bitcoin alone used over 132 terawatt hours of electricity annually, which easily surpasses the annual energy usage of Norway. The annual energy use for mining Bitcoin alone resulted in nearly 40 billion pounds of carbon dioxide.

While cryptocurrency continues to mature, we will monitor and assess other state cryptocurrency programs for taxpayer demand and participation. This concludes our presentation, and I would be happy to answer any questions you may have.

CHAIRPERSON YEE: Thank you both very much for the presentation.

Questions or comments?

MEMBER COHEN: Oh, yes.

CHAIRPERSON YEE: Member Cohen, please.

MEMBER COHEN: Thank you very much.

Okay. You said September 1st of this year
Colorado started accepting cryptocurrency; is that right? I heard that correctly? And you said another state stopped accepting cryptocurrency. Which state was that? I can't hear you.

CHAIRPERSON YEE: Ohio.

MEMBER COHEN: I'm hearing Ohio?

MS. CRANKFIELD: Ohio did have cryptocurrency in place for -- I believe it's 2021.

MEMBER COHEN: For one year?

MS. CRANKFIELD: I think it was a little less than a year.

MEMBER COHEN: Okay. And did they articulate why they stopped it? What lessons learned they have taken away from operating that space?

MS. CRANKFIELD: We have not identified the lessons learned. I can share that I have read information that they had less than a dozen participants during that period of time, but we don't have the exact reasons for the stoppage.

MEMBER COHEN: Do you know the profile of the person or individual or entity that Colorado has engaging? Now, granted it has only been a few weeks. I'm just wondering if there is any other preliminary information out there.

MS. CRANKFIELD: I'm not sure I understand the
MEMBER COHEN: So you said that Ohio stopped because there were only 12 entities that were utilizing cryptocurrency, right?

MS. CRANKFIELD: What I said was Ohio stopped. We are not sure of the exact reason, but we do understand that there were less than 12 participants during that time frame.

MEMBER COHEN: Okay. Got it. Thank you.

The next question I have is, based on the survey you took -- right? -- you took an audit of what is going on across the United States; do you have a recommendation for the State of California?

MS. CRANKFIELD: I believe, given the current information that we have in the developing federal regulatory landscape right now, we are going to continue to monitor and study to get more information to determine if that is -- if there is a need to move forward or -- just gather that information at this point in time and then make decisions from there.

MEMBER COHEN: Okay. And I was curious, how did this item get on the agenda? Was this --

CHAIRPERSON YEE: It was at my request.

MEMBER COHEN: At your request?

CHAIRPERSON YEE: Yeah.
MEMBER COHEN: Oh, okay. My questions are to you, Controller. I love this topic. Thank you very much. I love -- this is exciting to me because it is very forward-thinking. Obviously, it is an incredibly volatile space, and it is like the Wild, Wild West, quite honestly, so I'm intrigued by the exploration of it. I was curious to know what motivated you or why did you put this on the agenda.

CHAIRPERSON YEE: There has been a lot of interest, and frankly, there was a bill in the legislature this last session by Senator Kamlager that would have authorized any state department or agency to accept cryptocurrency as legal tender, which gave my office, the Controller's office, quite significant pause. There are no GASB rules that currently govern how we account for those types of payments. There was nothing else in the bill that specified how those payments would be received and processed.

I will say that I also have a -- an appointee on the Fair Political Practices Commission, and that commission has been receiving requests for allowing the -- allowing political campaigns to receive payments in cryptocurrency for many, many years. 2018, that commission adopted an outright prohibition against those types of payments because there wasn't enough
information and knowledge about cryptocurrency at the
time.

Those requests kept coming, and just this year,
a couple months ago in July, the commission did adopt a
regulation that now will allow political campaigns to
accept cryptocurrency. The contributions would be made
to a third-party exchange entity that would convert that
cryptocurrency, and that entity would also be
responsible for sourcing the identity of the
contribution, the source of the contribution. That
third party also has to be regulated -- regulated
entity, U.S. based.

And from my perspective, I think we are going to
watch that very closely to see just how those
transactions happen. I'm happy they are not going to
involve taxpayer dollars, frankly, because the State of
California can't afford to experiment in this area at
this point in time. But I wanted to put this on the
agenda because other states have started to take action.
I think part of the diligence that we do as a board is
to get out ahead of some of these issues with
informational items like this so that we can really have
our eyes open about the questions to be asked and
answered, but also to continue to monitor, as Yvonne and
Jon have said.
My personal feeling about this is that there is a lot of attention to this. I actually think President Biden has taken the right approach with his executive order and all Federal Government to look how we look at digital assets and its place in terms of what we do to protect consumers, investors, at the same time not inhibiting the technological developments that are happening in this space, so -- and the Governor's executive order essentially follows on to that.

So I think there will be a lot more activity in this. I also serve on the boards of the two largest public pension funds, neither one is invested in cryptocurrency because of its volatility, and we have all read the headlines of the past months about what has happened to the value -- the underlying value of these assets.

So a lot of interest, but I think with respect to our narrow focus here about accepting tax payments in cryptocurrency, as Ms. Crankfield suggested -- and I would agree -- we will continue to monitor the situation and certainly will be interested in the experience of other states.

MEMBER COHEN: Thank you very much. So I -- I think we can anticipate more study on this topic.

CHAIRPERSON YEE: Yeah, definitely.
MEMBER COHEN: Thank you. Thank you.

CHAIRPERSON YEE: Okay. Let me see if now there are any members of the public who wish to address the board on this item. Let me start with the members of the public on the phone line and then call in any members of the public here in this room.

Are any members of the public on the phone line who wish to comment?

PHONE MODERATOR: Members of the public on the phone lines, if you would like to place yourself in the queue for public comment, as a reminder, you may press 1, then 0 at this time.

(No response.)

PHONE MODERATOR: No members of the public are queueing up at this time. Please continue.

CHAIRPERSON YEE: Thank you very much. Are there any members of the public in the room who wishes to address the board at this time? Okay.

Seeing no one approaching the board, we will take this report. Thank you very much for the background, really appreciate it. It at least gives us a little bit of a threshold to begin to look at all of the activities that are really happening in the -- related to digital assets, including the executive orders both at the federal and state level, so very much
appreciate the -- the work and the presentation. Thank you.

MS. CRANKFIELD: Thank you.

MR. KOSIEWICZ: Thank you.

CHAIRPERSON YEE: All right. Our next item will be Item No. 5. This is also an informational item, and this is a presentation on the FTB's fraud protection efforts and let me ask Stacy Smith and Scott Reid to come forward and present.

Good afternoon.

MS. SMITH: Good afternoon, Madam Chair and board members. I am Stacy Smith, and here with me today is Scott Reid. We are from the Fraud Analysis and Detection Section, or FADS. FADS uses innovative selection methods to detect and prevent fraudulent claims and discover taxpayers who file false claims, underreport their taxes, or attempt identity theft. We are here to give you an overview of our fraud prevention efforts.

As you know, identity theft happens when personal information is stolen and used to commit fraud. The most common form of fraud we see here at FTB is refund fraud, and FADS handles all identity theft and PIT refund fraud for the enterprise. The impact of identity theft -- all fraud, really -- is not only felt
by the taxpayer, but by FTB and California. If we do not prevent fraud, the State loses money and our residents don't have faith in FTB as an entity.

Criminals have become more sophisticated in their attacks. With dramatic increase in data loss via corporate phishing, tax preparer takeovers, and corporate data breaches, it is getting more difficult to distinguish a good faith return from a fraudulent one. For example, in a tax preparer breach or takeover, the fraudsters have all of the taxpayer's information. They will file using the correct preparer ID number, and in some cases even file from the tax preparer's actual computer. This fraudulent return will look normal, as it is the right information from the expected preparer and their device.

Refundable credits increase the potential for fraud exposure for FTB. These refundable credits offer the fraudster enhanced opportunities for free money. It is our job to try to stay ahead of these criminals by detecting and preventing these refunds before they are issued.

Data breaches have dramatically increased over the last few years. The criminals are trying to obtain real people's data. They will breach systems, impersonate corporate officers, or buy data from
previous breaches. They do this to create the most accurate and realistic tax returns possible. We see identity theft returns coming from what appear to be legitimate firms, legitimate tax preparers, and legitimate taxpayers.

The imposter return looks legitimate. This puts us in a difficult position. We want to issue refunds quickly as to not impact legitimate taxpayers. Still, we want and need to stop these criminals. They will increase their efforts if we do not, and the State could be at more risk. These criminals have consistent data, making it hard to differentiate a fraudulent return from a legitimate return, which is why we send the taxpayer a notice and require contact to try and resolve the issue.

This is not just a tax refund or FTB issue. The criminals use the compromised data to commit fraud and impersonate real people anywhere they can get a monetary benefit. They have found ways to breach tax professionals, employers, payroll, and government agencies. They use the data for disability fraud, credit card fraud, unemployment fraud, and medical fraud, to name just a few. As you can see, we are all affected by identity theft fraud, and we still have a stake in preventing it.

FTB receives about 21 million returns annually,
and every return runs against our fraud analytics scoring model and rule hierarchy. Most of the returns are processed right away; however, about 5 percent of the returns fall out to FADS for further review.

There are many reasons why a return may fall out to us, ranging from taxpayer error, high fraud scores, failing specific fraud rules, and fraud lead sharing. We receive leads internally from our information security area and criminal investigations, our own FADS analyst, and our production technicians. We also receive leads externally from taxpayers, preparers, IRS, the other tax states, and industry partners such as software and banking institutions.

Once the return comes to FADS, our fraud modeling team takes a closer data-level look at the return to see if we can release it or if we need to send a notice. 65 percent of the returns the fraud modeling team looks at are released within three to seven days, so there is virtually no impact on the taxpayer. The other 35 percent will receive a notice requiring the taxpayer to contact us so we can obtain information directly from them to help us resolve the issue.

Our objective is to stop processing an imposter return so there are no issues for the legitimate taxpayer when they file their return. If an imposter
return gets through, the real taxpayer may have to paper file and it becomes a more involved process. A legitimate taxpayer must do much more and provide more documentation than we initially asked for when we suspect identity theft during processing, and we hold the return. This is because we must now prove they did not receive the original refund.

I am going to turn the presentation over to Scott, and he will continue with a deeper dive on our process and our very successful results over the past two years.

MR. REID: Great. Thank you, Stacy. So I'm Scott Reid, and I'm a Bureau Director in our Filing Division here at FTB. And as Stacy previously mentioned, when a tax refund looks suspicious, we need to make customer contact to verify the validity of that return. We do this by sending one of our three notices to the taxpayer.

Our main identity theft notice, the 3904, allows for a phone call resolution through enhanced verification. The taxpayer must call us to confirm that they filed that return. During this call, we'll perform enhanced verification, which involves asking them questions we know the answers to, and we believe would not likely be available from a data breach or easily
obtained by the criminal.

Our other two primary notices, the 4734D, verifying withholding, and the 4502, verifying the EITC credit, allow the taxpayer to choose what communication channel they prefer, phone or correspondence. Most cases can be resolved over the phone, but some taxpayers still prefer to send us mail.

So Stacy mentioned our two main goals of preventing fraudulent refunds from going out the door and ensuring that legitimate taxpayers get their refunds as soon as possible with as little impact as possible. And we achieve this by maintaining a call center that operates with an average 90 percent level of access and usually less than a five-minute wait, so taxpayers can always get ahold of us and resolve their issues timely if the return does fall out to us for further review.

So being cautious by nature, we also appreciate when a taxpayer doesn't trust that our notice is legitimate and takes steps to verify its authenticity. Our technicians are trained to give the FTB website address, where the taxpayer can go out and look up a phone number and see the correct number to call. Sometimes, in rare events when this isn't enough, we'll also put notes on the account and instruct the taxpayer to look up FTB's main customer service line. When they
call that line, they then get transferred back to our
FADS agents. This puts the taxpayer at ease, knowing it
is a legitimate contact and we can now help them resolve
their account.

So we have taken stakeholder feedback and
changed our process over the years to minimize the
impact on real taxpayers. We have pivoted to solving
most issues via phone and only requiring documents in
limited situations.

This slide shows the average FADS return
processing time for the past three years. As you can
see, we successfully minimized fraud processing time
frames and limit delays in issuing refunds to our
customers. We continually analyze our rules and refresh
our models to prevent fraud and decrease unnecessary
contacts.

We have been very successful in creating a
process that allows us to take a closer look at returns
that we do deem suspicious, while only impacting a small
amount of tax filers for a very short period of time.
But ultimately, it is up to the customer. The faster
they call us, the quicker we can resolve the issue. And
again, our call center is very easy to get into.

Our technicians also remind our customers to
contact us immediately if they ever get a notice in the
future. We receive compliments from many of our
customers for protecting them and the State's General
Fund. They compliment on how quickly they can speak to
an agent and what an easy process it was to get their
refund verified. Due to our successful business process
and our technicians' excellent customer service, we
receive very few complaints.

Historically, the fraudulent activity we see is
somewhat cyclical, where we'll have a few high-volume
fraud years, followed by lower attempts for the next
year or two. Our program has been very successful in
responding to these cyclical challenges and staying
fluid and evolving, just as the criminals change and
improve their methods.

As you can see from the chart, we are currently
in a peak period, and last year we stopped $569 million
in improper payments, which was our biggest calendar
year to date. And so far, this year, the fraudsters are
not showing any signs of slowing down. The '21-'22
fiscal year that ended in June, on a fiscal year basis,
we have now prevented over a billion dollars in improper
payments.

While the fraudsters don't appear to be slowing
down anytime soon, the reality is that cyber criminals
or opportunists use sophisticated techniques to exploit
systems to gather data, and they intend to monetize this data in the easiest way possible. So to date, we have successfully detected and prevented their efforts, and this is due to the hard work and the talent of our staff, our internal partnerships, and our nationwide fraud sharing and analytics partnerships with the IRS, the other tax states, FTA, and our industry partners.

The criminals never sleep, and the good news is neither do we. And we'll continue to be diligent in protecting California and its taxpayers from these fraudulent attempts.

I'd also be remiss if I didn't share that taxpayers and tax preparers can also help in our efforts to combat fraud. If they suspect that they may have been a victim of income tax fraud or identity theft, I would strongly encourage them to go to the FTB's website and search "tax fraud." There, they'll be able to file a report and help us prevent a criminal from filing a false tax return using their information.

So I'd like to thank the board for your interest in our fraud prevention efforts and giving us the opportunity to share some of these statistics with you, and we'd be happy to answer any questions that you have at this time.

CHAIRPERSON YEE: Thank you both very much for
the presentation.

    Member Cohen, questions or comments?

    MEMBER COHEN: Thank you. Yes. So first question is: What is the secret sauce? I mean, you guys clearly have it nailed down. I'm just wondering, so I can pass on a few recommendations to, say, I don't know, EDD.

    MR. REID: I think there are a few elements that are attributable to our success. One is we have had great support from this board, from current and previous administrations, as well as the legislature, in securing resources to really make an investment in those fraud prevention efforts.

    The second thing that we have done is we have invested a lot of training in our staff. And I think you guys have heard prior presentations on our data analyst program, and so we actually have several of our staff that have spent a year -- better part of a year -- going through data analytics training, and data -- I would say literacy, so that they are much more effective in being able to detect these people on the front end.

    I would say our old and current model, to a certain extent, was to look at something suspicious and then immediately reach out to whoever submitted that return and the -- with the expectation that the
legitimate taxpayer would actually return that call back and clear things up for us. What we are moving towards is trying to put a greater focus on those analytics, on the up-front process. And that allows us, instead of waiting for notices to go out and those taxpayers to return, as Stacy mentioned, like 65 percent of all of those suspicious returns were able to release within seven days because of those analytics.

So I would say it is really an investment both in people and in training, and really a diligence in making sure that that balance is achieved between getting people what they need and making sure that fraudulent and improper payments don't go out the door.

MEMBER COHEN: Thank you. Thank you for the most informative report.

I would like to go back to Slide 8. I think the Slide 8 told a remarkable story, and I want to get your input regarding the data shown on it. Just waiting for it to get back up on the -- on the screen. Yes, that's it. That's the one. Yes.

Okay. So you see in 2021, $569 million was saved, and then in 2020, 188 million was saved, and in 2019, 98 million was saved.

My question is was 2021 an outlier year or does 2021 represent the fraud of just a few large tax filers.
MR. REID: So that was our hope. Our hope was that 2021 was an anomaly year. I would say that we are continuing to see activity at -- maybe not that level, but at very close to that level. And so kind of the normal cyclical nature, where we see one high year followed by multiple years of lower years, does not seem to be occurring in 2022.

The other thing that is a little unique in 2021 -- and we'll see if that happens again in 2022 -- is normally we would see a lot of activity during the early part of the filing season, right? The criminals would want to get in their fake return before the actual taxpayer filed. What we saw in 2021 was that pattern continued throughout the year, and we actually saw a lot of activity towards the latter part of the year, even after the extension filing deadline.

MEMBER COHEN: I understand. Thank you.

Do you find -- are you able to -- have you put together a profile as to where a lot of these online robbers are operating from? Is it -- are we talking, like, data centers? Are we talking international espionage? What exactly are we dealing with?

MR. REID: So there are a number of tools that we have in place. Our fraud prevention efforts work very closely with our information security staff on the
technology side. Without getting into a lot of detail, I'd be happy to share some of this information, perhaps with you offline, as we don't want to give a lot of -- the recipe for success. But I would say that we have just seen a -- just an increase in volume in a number of different -- from a number of different sources, so --

MEMBER COHEN: Are they in the United States?

MR. REID: Some -- some are.

MEMBER COHEN: Are they in the state of California?

MR. REID: Some are.

MEMBER COHEN: Where are most?

MR. REID: I do not have detail in terms of the origination of many of these. What I can tell you is they are getting to be very sophisticated at masking where they are actually generating those -- those false returns.

MEMBER COHEN: What kind of training do our data analysts go through in order to recognize fraud?

MR. REID: So as I mentioned, we have our data analysts' program. We -- so that kind of gives our staff some familiarity with how to manage large data sets, how to look for anomalies, how to look for patterns. There are tools that help them in that regard.
MEMBER COHEN: When you say "tools," do you mean an application or some kind of a plug-in that you put on your computer?

MR. REID: Uh-huh, and then we are also, as I mentioned, participating in a lot of forums with other state tax agencies, the IRS, the banking industry. Our tax software preparers are very active in this area as well.

So a lot of it comes from understanding what people are seeing, and frankly, our analysts have an incredibly inquisitive mind. They really are focused on making sure they catch these criminals and identify those patterns early. It is all fine and good if we identify a pattern six months later, after, you know, thousands of returns have gone through. That's not what we are interested in doing.

So again, it is -- they have the tools. They have a lot of networking with their peers, and they are very -- very talented and inquisitive and enjoy the work that they do because they are able to protect Californians.

MEMBER COHEN: Thank you very much.

Back to you.

CHAIRPERSON YEE: Thank you, Member Cohen, for the questions.
I had a question on this slide as well. The footnote about the revenue saved for 2021 includes 31 million in Golden State Stimulus 1 and 2 --

MR. REID: Uh-huh.

CHAIRPERSON YEE: -- revenue saved. I'm just trying to get a sense in my mind about how fraud would have been present in those particular cases, because it seemed like that -- the recipient universe of those programs were pretty well identified, weren't they?

MR. REID: For Golden State 1 and 2, there were many filers that we had never seen before --

CHAIRPERSON YEE: So -- that's right, because they didn't have a filing requirement?

MR. REID: Right. For the current stimulus program, right, middle class tax refunds, that is currently under way --

CHAIRPERSON YEE: Right.

MR. REID: -- that's based on prior year return filings. And so while we'll continue to do some fraud checks, continue to do those, you're correct in that we do have a history. People have filed before they even knew that was available. And so having that be based on a prior tax return was really important to us to, again, stem, kind of, the proliferation of fraud attempts.

CHAIRPERSON YEE: Got it. Okay. Thank you for
the clarifications about that. I had forgotten about
the criteria. Thank you.

Let me now turn to see if there are any members
of the public who wish to address the board on this
issue, this item. We'll start with members of the
public on the phone first, followed by those here in the
room.

PHONE MODERATOR: Members of the public on the
phone lines, if you would like to place yourself in the
queue for public comment, as a reminder, you may press
1, then 0 at this time.

(No response.)

PHONE MODERATOR: No members of the public are
queueing up at this time. Please continue.

CHAIRPERSON YEE: Thank you very much.

Are there any members of the public in the room
who wish to address the board?

Okay. Seeing no one approaching, we will take
this report and really appreciate both of you presenting
that to us today. And congratulations on just great
efforts across the enterprise. Thank you.

All right. We will now move on to Item No. 6,
and this is related to legislative matters. And we will
have a presentation of our recap on our legislative
activities, and Denis Armstrong will be making the
presentation.

Good afternoon, Denis.

MR. ARMSTRONG: Good afternoon, Madam Chair and board members. My name is Denis Armstrong, and I'm the Assistant Legislative Director for the Franchise Tax Board. Over the next few minutes, I will give a legislative update highlighting activities such as the economic relief senate bill, Senate Bill 113, and several enacted budget trailer bills. This update will include FTB's legislative proposals and current bill developments.

After a couple years of COVID focus in the legislature, this year seemed to align with a more typical year. The economic relief bill, or Senate Bill 113, enacted in early February, contained several provisions that I will highlight.

Pass-through entity election and credit modifications impacted the tentative minimum tax application and credit ordering rules. The change impacting tentative minimum tax, also known as TMT, took effect in 2021, allowing the pass-through entity credit to reduce taxpayers' tax below TMT. The change in credit ordering rules, which took effect in 2022, reordered the utilization of the credits so that the pass-through entity elective tax credit is taken after
all other credits to ensure taxpayers would be able to
benefit from the pass-through entity's elective tax
credit five-year carryover provision.

There are also a few other changes that I wanted
to be sure to mention. One adds guaranteed payments
into the computation of the pass-through entity's
elective tax, as well as including guaranteed payments
in calculation of the taxpayer's corresponding credit.
Another change allows certain disregarded entities to be
included in the definition of a qualified taxpayer for
the pass-through entity elective tax and credit.
Additionally, there is a change to the definition of a
qualified entity to allow a partnership to be an owner
without disqualifying the entity. These changes are
effective for the 2021 through 2025 tax years.

This bill also includes several income
exclusions. The water and utility relief exclusions are
gross income exclusions for state purposes. These are
both related to payments made under the American Rescue
Plan Act. These provide a state-specific exclusion of
these payments from gross income, and these are
effective for the 2021 through 2025 tax years.

The restaurant revitalization and shuttered
venue operator grant exclusions are two gross exclusions
in this bill. These provisions are also related to
federal COVID relief provisions. Also, the repeal of
net operating loss deduction suspension and credit
limitation for 2022 ended one year earlier than the
original statute. These were originally scheduled for
three years, from 2020 to 2022.

Several budget trailer bills impacting FTB were
also enacted on June 30th of this year. Assembly Bill,
or AB, 192 is the Middle Class Tax Refund. This
provides for a one-time payment to eligible recipients.
The payments range from $200 to $1,050 per tax return,
dependent on the California adjusted gross income,
filing status, and whether the individual has a
dependent. FTB is partnering with the State
Controller's Office to issue direct deposit payments and
for the first time, a third-party vendor, to provide
debit cards. FTB quickly launched a web page to share
information about the Middle Class Tax Refund, including
a payment estimator tool. Payments are anticipated to
begin in October and are expected to continue through
January.

AB194, the tax provisions in this budget bill,
include multiple provisions impacting FTB. There is an
offsets exemption for the California Earned Income and
Young Child Tax Credits, starting for tax years
beginning on or after January 1, 2024, except for child
or family support. We have had many stakeholders who have reached out in favor of this concept.

The main street small business tax credits, this allows taxpayers who had previously received reservations to claim the credit on amended returns. For taxpayers who made reservations but did not claim the credit, this provision removed the timely-filed original return requirement so they could now claim the credit on an amended return.

The Homeless Hiring Tax Credit, these changes changed the definition and requirements and added provisions for subsequent-year certification. The California Competes Tax Credit extension, this program is now extended for five years, through 2027-2028. FTB assists GO-Biz by performing a compliance review of certain items to ensure compliance with the agreements entered into by GO-Biz.

The paycheck protection program conformity, this expands the covered period for an additional three months to be in conformity with the federal Paycheck Protection Program Extension Act of 2021.

And the one-time penalty abatement, this was based on an FTB legislative proposal resubmitted over many years, allowing the treatment of timeliness penalties to be similar to the federal procedure upon
request from individual taxpayers who meet certain requirements. It applies to requests for abatement made for tax years beginning on or after January 1, 2022.

AB195, the cannabis tax credits; originally contained in separate legislative bills, these two cannabis tax credits were moved to the budget bill related to cannabis, AB195. FTB will develop a reservation system that provides a credit equal to 25 percent of certain expenditures up to $250,000 per tax year for what is referred to as the "High Road Employer Cannabis Credit." It applies to three general categories: employee compensation, safety, and workforce development.

The cannabis equity tax credit provides a tax credit equal to $10,000 for certain eligible equity applicants and licensees. FTB will receive information from the Department of Cannabis Control in order to confirm the eligibility of these taxpayers. Both credits start for tax years beginning on or after January 1, 2023.

Senate Bill, or SB, 201. The Earned Income, Young Child, and Foster Youth Tax Credits; this bill enacted a foster youth tax credit similar to the Young Child Tax Credit, providing a credit for former and current foster youth between the ages of 18 and 25 who
were in foster care while 13 years of age and older.
The bill also allows Californians to qualify for the
Young Child Tax Credit with no earned income, assuming
they would otherwise qualify for the earned income and
Young Child Tax Credits. There are also computational
changes, such as adjusting the credits for inflation
annually.

Moving on to other updates. First, we have our
legislative proposals. As mentioned earlier, one of
FTB’s legislative proposals, the one-time penalty
abatement, was enacted this year. Again, this applies
to requests for abatement made for tax years beginning
on or after January 1, 2022. FTB still has several
legislative proposals for which we have yet to find
authors. However, we continue to seek authors for our
proposals. These proposals include modifying the
research credit to achieve modified federal conformity,
taxation of income from incomplete nongrantor trusts,
and installment agreements.

Lastly, FTB continues to monitor developments on
approximately 15 to 20 bills still proceeding through
the legislative process. We will know more as the bills
advance.

Thank you, Madam Chair and board members, for
your time today, as this concludes the presentation on
FTB's legislative matters. I'm happy to answer any questions that you may have.

CHAIRPERSON YEE: Thank you, Denis, for that thorough presentation.

Member Cohen, questions?

MEMBER COHEN: I was wondering, do you know the range for the new Foster Youth Tax Credit, the dollar amount that the young person would be qualifying for?

MR. ARMSTRONG: Roughly $1,000 per individual.

MEMBER COHEN: Okay. So I just want to say that I think the FTB staff is phenomenal, and I have the opportunity to interface with several different State agencies and organizations and staff levels. And I think that this is one of the most comprehensive analyses that I have seen in a long time, and I appreciate that. I appreciate the presentation. I appreciate that this analysis is presented to -- regularly presented to the legislature, but more importantly to the public so that they are able to track the conversations regarding the bills that are having an impact on, quite honestly, their dollars, their household dollars.

So this is great, excellent work, I think a true credit to the dedication and to the hard work of everyone that has prepared this analysis. And this is
not just specific to this presentation. This includes everyone, the other presentations as well. I want everyone to feel included in my respect, and I think it is really important just to highlight that the work is very valuable. Sometimes it may seem tedious, and it may seem thankless, but it is important information that you present to us, and that I -- certainly we -- take on to our respective constituencies that we represent. So I appreciate you, and I appreciate you keeping Californians informed. Thank you.

CHAIRPERSON YEE: Thank you. Thank you, Member Cohen.

Let me see if there are any members of the public who wish to address us on this item. We will start with members of the public on the phone line first, followed by those who are in the room here.

PHONE MODERATOR: Members of the public on the phone lines, if you would like to place yourself in the queue for public comment, as a reminder, you may press 1, then 0 at this time.

(No response.)

PHONE MODERATOR: No members of the public are queueing up at this time. Please continue.

CHAIRPERSON YEE: Thank you. I see we do have a member of the public who has approached the board here
in the room.

Good afternoon.

MR. BAER: Thank you. Bart Baer with Cal Tax.

Thank you, Denis, for the good explanation.
Just a real quick question on the last item -- next to
last item dealing with FTB proposals. And wondering if
the language has already been prepared for the
legislative proposals, in particular the -- the research
credit conformity point, if that is something that is
publicly available?

MR. ARMSTRONG: That is -- I'm sorry.

CHAIRPERSON YEE: Whether the proposal related
to the research credit for -- pursuant to federal
conformity is public.

MR. BAER: If there are more details available
and if there is language available to be reviewed?

MR. ARMSTRONG: There absolutely is, and I'd
be -- we'd be happy to share that with you.

MR. BAER: Great. Thank you.

MR. ARMSTRONG: Absolutely.

CHAIRPERSON YEE: Can I just ask a question on
that? Generally, don't we have a -- especially on
issues related to conformity -- those proposals
sometimes arise out of an interested party's proposal.
Is that still happening?
MR. HOFELING: Yes. That's the case, or the ones here, usually we have a form for conformity issues, for people to come forward with that.

CHAIRPERSON YEE: Yes. Right.

MR. HOFELING: We take issues -- or take suggestions. In addition to that, we are also listening to the public. When people come up with ideas, we try to work with them to understand. But that particular one is one that we have heard from the industry for a long time now, that the complications were not conforming. So that's something we worked on.

And then all of that is online, on our web page. And, as you know, the -- we bring our proposals to the board every December, and so that is also on there. But we will get that to you, definitely.

CHAIRPERSON YEE: Thank you very much, Shane. All right. Seeing no other members of the public, we will take that report and really appreciate the presentation, Denis. Thank you.

MR. ARMSTRONG: Thank you, Madam Chair and members.

CHAIRPERSON YEE: Thank you. All right, members, we will now move on to Item No. 7. This is the Executive Officer's time, and I will now turn it over to Selvi Stanislaus.
MS. STANISLAUS: Thank you, Madam Chair, and
good afternoon, board members.

First, I'd like to warmly welcome our newest
board member, the Honorable Joe Stephenshaw.
Unfortunately, he couldn't be here today, but on behalf
of the Franchise Tax Board, we are truly excited to have
him on our board. Mr. Stephenshaw was recently
appointed as the Director of the California Department
of Finance and brings with him a wealth of knowledge and
experience. We look forward to his insight and
guidance, and sincerely appreciate the unique
perspective and value he brings to this board.

Secondly, I'd like to highlight an event hosted
by our missions and values team and our diversity,
equity, and inclusion team. Every three years, the M
and V team will host a multicultural foods and arts fair
to study the FTB's diversity and share and learn about
other cultures. While the pandemic prevented us from
gathering in large numbers for an in-person festival, we
still wanted to be able to hold this event in a way that
allowed us to honor the event and help keep our
employees connected.

So this year, the missions and values team, they
partnered with our diversity, equity, and inclusion team
to present an online cookbook and video to celebrate the
multicultural foods and arts fair. The M and V team reached out to staff for food recipes near and dear to their culture and compiled those recipes into a PDF recipe book so everyone -- that's staff and also the board members -- have access to the book. We received over 30 amazing recipes that the missions and values team was able to share. The DEI team also did a remarkable job creating a video that included photos and videos from the events heard in past years. I thank everyone involved for making this year's virtual event a success.

And finally, as always, I want to thank you, our board, for your time. The value, the perspective and experiences that you bring to FTB cannot be overstated, especially under the leadership of the Controller, the Honorable Betty Yee. So thank you all again. With your support and leadership, FTB is ready to tackle the world and take advantage of opportunities ahead. Thank you, board members.

CHAIRPERSON YEE: Thank you very much, Selvi, for your comments. And I will echo Member Cohen's comments that we really do have a spectacular enterprise here that is so centered on just the talent that we have throughout the organization. Thank you.

Let me see if there are members of the public
who wish to address the board on Ms. Stanislaus's
comments. Yes, I see -- let me start with those on the
phone line first.

PHONE MODERATOR: Members of the public on phone
line, if you would like to place yourself in the queue
for public comment, as a reminder, you may press 1 and
then 0 at this time.

(No response.)

PHONE MODERATOR: No members of the public are
queueing up at this time.

CHAIRPERSON YEE: Thank you very much. I do see
we have a member of the public here in the room.

Good afternoon. Yes.

MR. BAER: Thank you.

Thank you, Selvi, for those comments.

I'm Bart Baer with Cal Tax, and I didn't have a
comment on your -- on your report, but had a general
comment about FTB proceedings. I just want to share
some thoughts from our organization dealing with the
regulation process and, kind of, what is happening with
that in 2022, and then a general comment and then one
specific comment to share.

So in the end of 2021, the FTB set out its
agenda for regulation projects it planned to work on in
2022, and there was a timeline set out for each of the
projects. There was a number of different steps that were laid out, expected dates for interested parties' meetings and public hearings on notices of proposed regulations.

And so far in 2022, at least based on what we could see on the FTB's website, it doesn't appear that there has been the anticipated level of activity around that. We haven't seen those public hearings.

So just a general comment is, you know, we believe that having the regulatory process play out in the public arena is very important. And in particular, we are in favor of very frequent and robust interested parties' meetings and full public commentary that goes on. It allows taxpayers and other members of the public to be able to share their input on how statutes should be interpreted and how the proposed regulations might be set out, both from a technical perspective and also from a compliance perspective. So just encourage the FTB to follow the expectations that are set out publicly in that process timeline, and also the different steps to be followed and, you know, just so that we have more input and met expectations on behalf of the public. So that's the general comment.

The specific comment has to go with the market sourcing regulations, so this is the set of regulations
under Section 25136, and those involve the apportionment for purposes of the sales factor of sales of services and sales of intangibles. And many of us have been long involved in that process, going back to a Statute 25136 that was, I think, effective more than ten years ago.

And commend the FTB for many, many interested parties' meetings and, again, a very robust process with the public in getting feedback in terms of how those rules should work. They are very complex rules, obviously. There have been recent interested parties' meetings, and I believe we are moving forward to having proposed regulations formally proposed, and then there would be additional public hearings on that.

So I was noting I don't think we have had any public hearings this year. However, FTB issued a legal ruling in this area, legal ruling 2020 -- 2022-01, that sets out three very specific examples of how market sourcing should work and how they would apply to receipts from services performed by one business for another business.

And the -- one of the key examples in that ruling basically said that there would be a look-through approach, where you would source by looking to the business customers -- customer, or the ultimate customer. And I just would note that this legal ruling
took a different view, maybe the opposite view, of a chief counsel ruling that was issued five years ago. That was CCR2017-01, and that determined that the sourcing should occur at the business customer location. And so that CCR has now been rescinded per that legal ruling, and this is shown on the website.

So we are not -- we are not asserting that one particular approach is the correct approach, and that will have to be determined through the normal process, but, you know, we do believe that providing detailed examples in guidance regarding how the statute should be applied is better done in the regulatory process, where you have IPMs, public meetings, taxpayers are able to give input in terms of how well these regulations -- how well these examples follow the statute; how does this work from a compliance perspective, you know, particularly where you have a situation where the FTB's approach and interpretation of a particular statute changes significantly.

So that's all I have for today. Thank you very much.

CHAIRPERSON YEE: Thank you very much for your comments. Really appreciate the request for, I guess, more robust processes, but also more clarity with respect to the rulings that are issued. And I think we
are all after the same thing with respect to compliance and ease of compliance on all sides, and anytime we have suggestions for process improvements, we will definitely take those seriously, so I appreciate that comment.

Any other members of the public who wish to address us on this item?

Okay. Seeing none, we will move on to Item No. 8, and this is board members this time. And let me turn to Member Cohen to see if she has comments.

MEMBER COHEN: Thank you. I would just like to ask that we entertain a motion to rescind the vote on the first item for the minutes so that I can be on the record for that.

CHAIRPERSON YEE: Oh, sure. Okay.

MEMBER COHEN: Thank you. I have nothing else to share.

CHAIRPERSON YEE: Do we need to do that formally?

MR. HOFELING: Yes. Just call for a revote of Item No. 1.

CHAIRPERSON YEE: Okay. Revote. So let us go back to Item 1 at this point in time. This is approval of the minutes. And why don't we just -- do we need a motion to rescind the vote? We do.

MR. HOFELING: Yes. You can make one motion to
rescind the prior vote, and then you can call for a new vote.

CHAIRPERSON YEE: Okay.

MEMBER COHEN: I'll make a motion to rescind the prior vote and call for a new vote on Item 1.

CHAIRPERSON YEE: Okay. I will second that motion. Without objection, such will be the order. And that item is properly before us now for approval.

Is there a motion?

MEMBER COHEN: So moved.

CHAIRPERSON YEE: Motion by Member Cohen. I will second that motion. I believe Member Miller is no longer with the meeting, so it'll just be -- why don't we call the roll for the record.

MS. RAMIREZ: Member Cohen?

MEMBER COHEN: Aye.

MS. RAMIREZ: Member Miller?

[No response.]

MS. RAMIREZ: And Chair Controller Betty Yee.

CHAIRPERSON YEE: Aye.

Thank you.

MEMBER COHEN: Thank you.

CHAIRPERSON YEE: Other comments?

MEMBER COHEN: No, that's it for me.

CHAIRPERSON YEE: Okay. Very well. Thank you.
Let me just provide a couple comments, if I may.

I also want to add my congratulations to Director Stephenshaw. Very much look forward to working with him in our various capacities in his role as the new Director of Finance and a very, very experienced person leading the department, and just look forward to the opportunities to work together.

I also wanted to just thank the staff at the Franchise Tax Board. A lot has been coming at you, and not just because we are all still looking to identify the best way to work going forward, but also how to do that in a safe manner with, still, the pandemic and its variants with us.

But I just want to applaud Selvi and your team for staying on top of the public health situation. And I hope one day we don't have to even talk about it, but we know that there are just always new developments, and we are learning about it, and I guess that's why they call it the novel coronavirus. It is new and we are continuing to learn more about it each day.

But part of that is also just the diligence with -- as we look to remote work and now hybrid work. I want to thank the information security folks because we know that cyber security is rampant. This is a ripe environment for cyber security, and certainly the care
with which we exercise all of our -- all of our information here at the Franchise Tax Board has always been at a high level, but even more so now. So just kudos to the team for staying vigilant around those issues.

I cannot say enough about the role this organization plays with respect to providing much-needed relief to vulnerable Californians during this time. Certainly with respect to the pandemic and those who are affected by the pandemic through the Golden State Stimulus Payment programs, but now with the Middle Class Tax Refunds, and just so much of what is affecting households in California with inflation and just a lot of uncertainty about the economy.

We know the inflation numbers that came out last week just identified three areas that I know all of us -- or know people who are feeling the pinch as related to food prices, as related to rents, as related to healthcare. And I think we also heard stories about probably even having to look at electricity prices probably on the rise going forward. But to be able to put money in people's pockets and to have those payments going out shortly, I think, means so much to so many Californians.

And on that note, I did want to add an item for
further review, and that is we have many Californians who will be affected by the much-welcome announcement about the student debt forgiveness. And I know that in many states, including California, the amounts of the debt forgiveness are subject to state income tax. And so I would just add -- add and request that we elevate that proposal, and I know the legislature is interested in looking at this.

But it just seems a little ironic that we are providing relief -- the President has announced this relief, much welcomed on the one hand and on the other hand, we're going to kind of look at how we create more pressure financially by taxing the amount of that relief. So I hope we can make some progress on that here in California on that front.

And then lastly, this is one of those bittersweet moments. Seems it happens more frequently, but I do have the great privilege of -- of acknowledging a retirement resolution for someone very, very dear to many of us in this room, and that is to Mr. Bill Hilson, who has been serving as our Deputy Chief Counsel of the Settlement Litigation Bureau. He's joined today by members of his family, including his wife, Penny Lucchini, his son, Christopher Hilson, his daughter-in-law, Jaclyn Hilson, and grandson, Collin
Hilson. And I am just going to ask them all to stand so that we may acknowledge them.

(Applause.)

CHAIRPERSON YEE: I have known Bill for, gosh, a couple decades, maybe? But this is someone who has just had a remarkable journey in this organization, and I will just read the resolution. It almost defies the body of work that he is leaving with us. It is truly legacy work. It has been tough work, and I teased him earlier that I felt like calling a closed session today just in his honor, just because we always have something to talk about.

But let me just recognize Bill in this way.

Whereas, Mr. Bill Hilson began his Franchise Tax Board journey in May of 2001 in the legal division and was quickly recognized as an attorney's attorney.

And whereas, Mr. Bill Hilson, currently the Deputy Chief Counsel of the Settlement and Litigation Bureau, and having been the founder of FTB's Litigation Bureau, worked with executive management, the Government Operations Agency, and the office of the Attorney General.

And whereas, Mr. Bill Hilson is a recognized expert in litigation strategy and practice, a leader within FTB management, and mentor to countless others in
the FTB family; and most importantly, a friend.

    And whereas, Mr. Bill Hilson earned the
admiration and respect of his staff with his grit and
integrity, defending FTB in many difficult and complex
cases, including trips to the California Supreme Court,
appearances at the California Courts of Appeal and
Superior Court, as well as the United States Supreme
Court, not once, but twice.

    And whereas, Mr. Bill Hilson is a consummate
legal expert with the ability to explain complex tax
law, including the lengthiest tax protest in FTB
history, and highly respected in the tax community as
someone who listens to taxpayers' concerns and is a
trusted resource.

    And whereas, Mr. Bill Hilson is it set to embark
on his next chapter, including golfing, supporting his
New England Patriots -- oh, gosh, we will not hold that
against you -- and spending time with family, especially
his grandson, Collin.

    And now, therefore, let it be resolved this 23rd
day of September, 2022, by the Franchise Tax Board, that
we recognize and thank Mr. Bill Hilson on his
retirement, for his professional and personal dedication
for over 21 years to the Franchise Tax Board, and most
importantly, to the people of the state of California.
Bill, congratulations and we wish you all of the best as you embark on your next chapter, and really a big, big deep-felt thank you. Congratulations.

(Applause.)

MR. HILSON: Thank you. This was going to be difficult enough for me to begin with. And after hearing the words of the resolution -- and this is the first time I have heard them -- it doesn't make it any easier.

Most of you know me. Most of you know I'm not a stranger to public speaking, but this one is different because my public speaking roles are usually where I am advocating on behalf of the department or doing updates at seminars as to what is going on with FTB and its litigation portfolio. It is very rare for me to be standing here talking about myself.

And so talking about myself, talking about others, it is not something that I do, and I really struggled with how I was going to go about doing this presentation. I got to a point where I sat down, and I just asked myself: What are you going to be feeling when you stand at that podium or you go up on the stage to receive the receive the award? And basically, what it came down to is yeah, feelings.

I mean, right now, excitement and humility are
at the forefront. But when I get past that, it is a --
just -- it is a great sense of good fortune, pride, and
gratitude. I truly consider myself fortunate. I have
had a good life. I have had a great professional
career. And I can honestly say if someone were to offer
me the opportunity to trade my experiences for theirs,
I'd turn it down.

When I say I am experiencing feelings of pride,
I am not talking about my personal accomplishments. It
was hard enough to listen to what is in the resolution.
What I'm talking about is I take great pride in being a
representative of the Franchise Tax Board. Let me give
you a little background as to why I say that.

I started my career in 1978. It was in
November, shortly before Thanksgiving, that I got the
good news from the bar examiners that I had passed the
California State Bar. I was admitted to practice law in
all courts of the state of California shortly
thereafter, and a few weeks later I embarked on what has
been a 40-plus year career.

My career breaks down at roughly 50 percent
public sector and at Franchise Tax Board. During the
last 15 years of my career in the private sector, I was
a -- for lack of a better term -- I was a partner in
what was then the largest firm in Sacramento, and a firm
that enjoyed a stellar reputation for going about its
business with ultimate high ethics and providing high
quality customer and client representation on a regular
basis. Quite frankly, that's the way we did things.

And one of the things I learned during that
15 years is that if you commit to doing things the right
way, putting your ethics out in front, there is really
something about that that's very liberating, and it
actually gets to a point where it is easy to do things
that way. It is easy to take on the difficult situation
because you're being forthright and honest.

In 2001, I decided to make a career and a life
change, and at that time I joined the Franchise Tax
Board. What did I know about the Franchise Tax Board?

What I knew was it was an entity to which I wrote checks
on an annual basis, and that it had a reputation for
being a good place to work. That was about it. I
didn't really know what I was getting into. I didn't
know what it was going to be like in terms of continuing
to practice law the way I wanted to or the way I had
become accustomed to.

As I -- as I became acclimated to FTB and began
to take on expanding responsibilities and know more
about the organization as a whole, as opposed to just
the confines of the legal department, I came to realize
that the values I had come to cherish -- again, doing things the right way and taking the high road while you're doing it -- were here. Not just in the legal department, but throughout the -- but throughout the organization.

The Taxpayer Bill of Rights talks in terms of FTB having an obligation to ensure that taxpayers pay the correct amount of tax. But quite frankly, I don't know that the legislature had to go ahead and put that goal into a statute, because from what I have seen of this place, that was already the mantra and the way that FTB went about doing things.

I have had experiences here that cross over the many divisions within FTB. I have seen the audit division spend a lot of time addressing how tax statutes should be applied so as to ensure that the laws are applied fairly, consistently. I've likewise seen how forms and communications people go to great lengths to tell taxpayers in writing how to meet their filing obligations. That dedication to fairness is also -- is also present and in the forefront of what I sometimes refer to as the back end of the FTB operation, and that's debt collection.

FTB, obviously, is the principal revenue raiser for the State of California. It has got the fiduciary
obligation to go out and do it. FTB also is aware of the fact that there are a lot of people in this state who are not in a position to simply write a check and pay their bill. We have programs out there. Our people are trained to take into consideration these hardships. We have a variety of ways to deal with that, and we are in -- and while we -- there is a balance that where we have to, at times, be firm.

The fact of the matter is, is that in fulfilling that obligation, FTB doesn't sue people. We don't foreclose on their homes. We don't force them into bankruptcy. The legal division, of course, plays a significant role in all of this, as well as being in the forefront of handling formal dispute resolution matters, be it internally or before the Office of Tax Appeal, its predecessor, the Board of Equalization, or the courts.

Regardless of the forum, we carefully review our facts, research the law, and clearly state the FTB's positions in all of our written submissions to these various tribunals. Should the matter require oral argument, our presentations are always professional and are done in a manner showing respect for whoever it is that's presiding over the matter, the taxpayer, and whoever it is that may be representing the taxpayer.

These considerations of fairness are not limited
to FTB's performing its tax assessment and collection responsibilities, but also in the way FTB treats its employees. We strive to continue FTB's reputation for being a great place to work through the use of open-door policies, and to ensure that employees' concerns are heard. We also strive to eliminate discrimination and all forms of bias from the workplace, and as Selvi pointed out a few minutes ago, we affirmatively undertake efforts designed at inclusion, not exclusion.

While mistakes might incur and there is always room for improvement, I believe FTB ascribes to high standards in all aspects of its operation and function, and I am proud to be part it for the last 20 years.

Gratitude. I am just -- I am overwhelmed. I can't thank you enough for what you're doing for me. But -- and I really appreciate what FTB is, what it has become, and I'd like to extend some personal thank yous at this point.

To the board, Members Cohen, Miller, and Chairwoman Controller Yee, and your predecessors, I thank you for your guidance and oversight, and -- that you have provided and will continue to provide to this organization.

To Controller Yee, I can't help but reflect upon the fact that I have represented FTB before the Board of
Equalization on occasions where you were charged with
the responsibility of deciding the matter, and on other
occasions in your capacity as Chair of the FTB. I want
to thank you for your professionalism, for always being
prepared, listening, and asking the questions designed
to get at the heart of the matter to enable you to make
the decisions you did, and that includes those occasions
where you disagreed with the position I was advocating.

    To Selvi, for your unwavering dedication and
devotion to this organization, and for your unspoken
insistence that FTB always operate with consistent
excellence.

    To Jozel, for sharing my compulsions for word
sleuthing and finding the proper tone or tones for
written and verbal communications, for having the
confidence in me to entrust me the various cases I have
been assigned and the positions of responsibility I have
achieved within the legal division. More importantly,
thank you for the friendship we have developed.

    To Shane, very simple, for being my always
available -- my always-available sounding board on any
topic.

    To Ann Hodges, for being my proverbial right arm
for these past many years. To Ann, Scott DePeel,
Joanna Palisoc, and the many other people who helped me
meet the numerous challenges that thrust upon FTB in connection with a certain matter that went before the Board of Equalization during August of 2017.

To all of you who work in the Settlement and Litigation Bureaus, I thank you for your commitment to excellence, as well as the intellect, personality, and diversity you bring to our organization.

To the chiefs and upper management members of all of the divisions not named legal, I thank you for your open-mindedness and willingness to listen and consider the advice provided by legal on various matters, even though there might be a sense that what legal might be saying is -- is sometimes understood or figured to be an unnecessary stop sign.

To my fellow colleagues in the Legal Division management team, I thank you for your dedication to ensuring that the Legal Division is the best that it can be. I know the challenges and pressures you face, and I also know that you have the collective knowledge and temperament to guide and lead the division through whatever challenges may arise in the near and not-so-near future.

A few minutes ago, I told you that if offered the opportunity, I would not change my -- not trade my life for another. That is particularly true when it
comes to my family. With me today are my wife, Penny, my son, Chris, my daughter-in-law, Jaclyn, and my grandson, Collin. My daughter -- my daughter, Meaghan, couldn't be here, but they are -- they have always been supportive, and they are truly what is most important to me, and I thank them for supporting me today and throughout the years.

To Chris and Meaghan, I thank you for putting up with the long hours I put into my career over the years, and for becoming the upstanding people you are and for assuming more and more responsibility within the family as time -- as time has transpired. To Jaclyn, I thank you for becoming part of the family and all that you bring to us. To Collin, I thank you for the unbridled sense of joy I experience every time I see you, and the reminder of what a precious gift children truly are.

And to my wife, Penny -- I could go on for a long time, but she would kill me. But it is really very simple. We have been married for 42 years, and Penny has been with me every step of the way during my legal career. We shared the highs, the lows, and the moments of nervous anticipation. Penny has always been there for me and is my personal rock. I know I don't thank her enough for the support she has provided me throughout my career, but it is the reality, the value
of which can't be quantified and is only exceeded by my appreciation.

In closing, one of the certainties in life is that time moves on, and that time has come for me to retire from FTB. Doing so is bittersweet because I'm doing it -- I'm stepping away from something that is very, very dear to me. My memories of FTB and its people will always be positive, and I cannot express how much I appreciate your letting me be a very small part of this organization.

Thank you for everything, from the bottom of my heart.

(Applause.)

CHAIRPERSON YEE: Before we ask Bill to come to the stage, let me turn to Member Cohen for any comments?

MEMBER COHEN: No comments. Thank you.

CHAIRPERSON YEE: And let me see if there are any members of the public that wish to comment.

Very well. Thank you.

Thank you very much, Bill.

I'm just going to ask all of you to rise again and just help me to extend all best wishes to Mr. Bill Hilson on his well-deserved retirement.

(Applause.)

(Mr. Hilson approaches the stage and receives award.)
CHAIRPERSON YEE: Thank you very much, members.
Thank you, Selvi, Jozel, and Shane. Again,
congratulations to Bill.

And seeing no other business to come before the
board, this meeting is adjourned. Thank you very much,
everyone.

(Meeting concluded at 3:48 p.m.)

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REPORTER'S CERTIFICATE

State of California } ss.
County of Sacramento } ss.

I, CARLI MCKENNY, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported in shorthand by me, CARLI MCKENNY, 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 hereby certify this transcript at my office in the County of Placer, State of California, this 12th day of October, 2022.

/s/ Carli McKenney
CARLI MCKENNY, RPR, CSR NO. 14086
Certified Shorthand Reporter of the State of California