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STATE OF CALIFORNIA  
FRANCHISE TAX BOARD

PUBLIC MEETING

TUESDAY, DECEMBER 8, 2015  
GERALD GOLDBERG AUDITORIUM  
9646 BUTTERFIELD WAY  
SACRAMENTO, CALIFORNIA

REPORTED BY:

KATHRYN S. SWANK  
CSR NO. 13061

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1 APPEARANCES

2 BOARD MEMBERS:

3 BETTY YEE

4 JEROME E. HORTON

5 ERAINA ORTEGA

6 YVETTE STOWERS

7 STAFF:

8 SELVI STANISLAUS, EXECUTIVE OFFICER

9 DAWN CASEY, BOARD LIAISON

10 MICHAEL BANUELOS

11 CATHY CLEEK

12 MICHELLE FALLON

13 SUSAN MAPLES

14 JACOB ROPER

15  
16 COUNSEL:

17 PAT BITTNER

18 BRUCE LANGSTON

19  
20 ALSO PRESENT:

21 Mario Guerrero, Local 1000

22 Vicki L. Mulak, California Society of  
23 Enrolled Agents

24 Gina Rodriguez, CalTax

25 Kathryn Zdan, Spidell Publishing Inc.

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SACRAMENTO, CALIFORNIA

TUESDAY, DECEMBER 8, 2015, 1:35 P.M.

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CHAIRPERSON YEE: You all became quiet. You are like my alarm.

This is the scheduled time for the meeting of the Franchise Tax Board.

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

BOARD LIAISON CASEY: Member Horton?

MEMBER HORTON: Here.

BOARD LIAISON CASEY: Member Ortega?

MEMBER ORTEGA: Here.

BOARD LIAISON CASEY: Chair/Controller Betty T. Yee?

CHAIRPERSON YEE: Here.

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

At this time the board is going into closed session to discuss pending litigation. We'll ask the audience to please remain seated while the board members exit.

Thank you.

1 (The Board met in closed session  
2 between 1:35 p.m. to 1:46 p.m.)

3 CHAIRPERSON YEE: Thank you. The board met in  
4 closed session and discussed pending litigation. We are  
5 now back in open session.

6 The public has the right to comment on each  
7 agenda item, and if there are members of the public  
8 wishing to speak on an item, please come forward when  
9 the item is called, and you will have three minutes to  
10 address the board.

11 The first item, Members, moving into the open  
12 session agenda, is the approval of the minutes. We have  
13 the minutes of the September 22nd, 2015, board meeting.

14 Is there a motion?

15 MEMBER HORTON: Move approval of the minutes as  
16 stipulated.

17 CHAIRPERSON YEE: Okay. Motion by Mr. Horton.

18 (No audible "second.")

19 CHAIRPERSON YEE: Seconded by Ms. Ortega.

20 Without objection, such will be the board's  
21 order.

22 Item 2 was removed, so we are now on Item 3 which  
23 is the California Earned Income Tax Credit Update. This  
24 is another informational item, and we have a PowerPoint  
25 presentation so let me ask the members to reconvene at

1 the -- let's call it the precarious table. But -- for  
2 the presentation.

3 Mr. Roper and Ms. Fallon to present. Good  
4 afternoon.

5 MS. FALLON: So Jacob and I are here to give you  
6 our EITC outreach update. And we're going to kind of  
7 tag team this for you today.

8 And up on the screen right now are the items that  
9 we're going to cover. We're going to breeze through a  
10 lot of this material so that we have time to focus on  
11 the things that are interesting to you. So with that,  
12 I'm going to turn it over to Jacob, and he's going to  
13 start off by telling you about our ever growing  
14 coalition effort.

15 MR. ROPER: So as Michelle mentioned, we have  
16 this coalition that's supporting earned income tax  
17 credit outreach, and it is ever growing. We add a new  
18 member just about every day. I want to say we're at  
19 four dozen-plus right now. But it has taken the  
20 leadership of all three of your offices and we do  
21 appreciate that -- the governor's office, controller,  
22 BOE, as well as the state interagency teams that's  
23 focused on reducing poverty. That's a group of  
24 approximately 20 public facing state departments which  
25 has some form of public aid program. And we've talked

1 to their expertise to help with the EITC outreach.

2 We've also worked with local governments,  
3 nonprofits, regional coalitions, churches, school  
4 districts, and community colleges.

5 MS. FALLON: So another great outcome of the  
6 coalition under the collaboration effort is the  
7 interactive heat map that you see on the screen above.  
8 This map actually shows you the EITC eligible taxpayers  
9 by ZIP code, but if you -- if you visit the interactive  
10 tool on the actual Web site, you can also sort this  
11 information by senate or assembly district or by county,  
12 and right here is a screen shot of that interactive tool  
13 by county.

14 So -- and you will see that there's a drop down  
15 box at the top labeled "layers," and that is, right now,  
16 in default mode, which is showing you the federal EITC  
17 numbers. But you can choose to see this information by  
18 households with income under 15,000, or you can even see  
19 it with the concentration of the highest levels of the  
20 people who are qualified for the state credit.

21 We're going to be able to use this tool to  
22 strengthen our communication plan because we're going to  
23 be able to overlay our outreach efforts on top of this  
24 and see where -- if there's -- where there are gaps and  
25 make sure that we're saturating that level or those

1 areas as well.

2 MR. ROPER: Another key part of building a  
3 successful program is making sure that we have effective  
4 communication and we tap into the needs of the audience  
5 that we're trying to reach. Many of our external  
6 partners held a series of community hearings and took  
7 the following points that, really, we thought pertain to  
8 VITA and EITC outreach.

9 There is an overall distrust of government  
10 programs, even those with direct aid. Many were  
11 overwhelmed with other urgent concerns. There was  
12 obvious language barriers. There was a lack of  
13 consistent messaging. Many voluntary income tax  
14 assistance sites were at capacity. Many used paid tax  
15 preparers, and many are part of the unbanked population.

16 MS. FALLON: So now we want to share with you a  
17 series of a our communication tools, and we're going to  
18 start with our -- this slide, which is all about our Web  
19 support and messaging.

20 So as Jacob just mentioned, one of the key  
21 insights is that people really don't trust government.  
22 Shocking, I know. But that's one of the reasons why the  
23 coalition set up this nongovernment Web site for Cal  
24 EITC, so it would have a very nongovernment look and  
25 feel.

1           And the Web site has some pretty cool tools,  
2 which includes the interactive map that we just showed  
3 you. And it also includes the newly deployed credit  
4 calculator, and here's a screen shot. And what I love  
5 about this calculator is that it's very easy and  
6 intuitive to follow. All you have to do is fill in the  
7 drop down boxes, check some checks at the bottom of the  
8 screen, and, then, at the very bottom, you will see that  
9 the EITC for federal and state is calculated for you.

10           So in this example, a single individual, with  
11 three or more children, making around 11,000 a year, is  
12 going to be eligible for over \$6,000 in the federal and  
13 state EITC.

14           Now, FTB had some -- was a very strong partner in  
15 developing this tool, in both the development and the  
16 testing. And I'm very happy to tell you that that tool  
17 is accurate down to the dollar level.

18           So continuing on, Cal EITC also has a free tax  
19 assistance binder, which Jacob is going to talk about in  
20 just a moment. And then our FTB Web site, of course,  
21 has EITC information and it also -- we're getting ready  
22 to deploy a partner portal, which I've talked to you  
23 about before. It just will have resources and  
24 information and downloadable collateral material for  
25 people who want to partner with us on outreach.

1           And then on the taxes.ca.gov site, we're going to  
2 have a button that takes this straight to the Cal EITC  
3 nongovernment site. And this is just a brief summary of  
4 how we'll communicate using the Web.

5           And now I will turn it over to Jacob who's going  
6 to talk about how we're going to reach people who maybe  
7 have never filed a tax return before.

8           MR. ROPER: A big part of Franchise Tax Board's  
9 outreach for this program is going to be a direct mailer  
10 to approximately 90,000 taxpayers in California. We're  
11 targeting those who haven't filed a state return in the  
12 past; therefore, could be current benefactors of the  
13 earned income tax credit at the federal level but will  
14 need to change their reporting behavior, report a state  
15 return, to qualify and access the new credit. They meet  
16 the age and the income parameters and also likely have  
17 at least one dependent, putting them in that family  
18 range.

19           We're also going to be working with our community  
20 partners to share, ahead of schedule, when the mailers  
21 will go out, what regions they will go to, and give them  
22 copies of the mailers so that they can see what  
23 individuals are bringing into the VITA sites with them.

24           MS. FALLON: So in addition to the direct mailer,  
25 we're producing other print deliverables, and they are

1 listed here, a lot of them, on the sheet -- on the  
2 slide. But in front of you, there's a brochure of our  
3 newest EITC collateral material, and -- we thought you  
4 needed to take away from this meeting. But all these  
5 documents that are on this list, and on the Web site,  
6 they will be downloadable into various, different forms  
7 of digital material, and then you can also order them  
8 online.

9 MR. ROPER: We will also be providing some  
10 videos, marketing how-tos for our community partners.  
11 One basic video will be the preparation of an EITC  
12 return, both online and in paper. We will also be doing  
13 brief webinars for outreach partners, and we plan to  
14 develop a social media calendar, as we learned from the  
15 community meetings that mixed messages can hurt the  
16 outreach. So we do want to make sure that everyone is  
17 on the same page with their marketing during the filing  
18 season.

19 MS. FALLON: So upcoming, as the filing season  
20 starts, we're planning on putting a good amount of focus  
21 in target regions with high populations of our audience.  
22 And we're planning to blanket those areas with  
23 radio spots, op-eds in community newspapers, and we're  
24 exploring outdoor advertising as well. And I think the  
25 key here is to, you know, take -- go back to those key

1 insights, because all of this message and all the  
2 communication tools are tied back to having a consistent  
3 message, having -- using plain language and easy to  
4 understand, very concise, for people who are very busy,  
5 to help them find free tax help or tax prep help for  
6 those who are in our lowest income brackets and who may  
7 not be able to afford it.

8           And they are -- also, finally, will be available  
9 in different languages, depending on the languages that  
10 are in that population and county.

11           Now we're going to shift gears and we're going to  
12 tell you a little bit about how we're going to leverage  
13 VITA to encourage population from some of our lowest  
14 income families.

15           MR. ROPER: We're definitely doing everything  
16 that we can, from a state level, to stand up and support  
17 existing VITA partners. We have agreed to support a  
18 VITA site finder on the CalEITC4me.org Web site that  
19 will be more robust and expanded than anything available  
20 right now.

21           We also provided a starter kit to our community  
22 partners, giving them an idea of how to begin a site,  
23 what materials will be needed, and what kind of process  
24 this will go through.

25           We're also making sure that we make all the

1 options available to taxpayers and educate them on the  
2 free services. It is taxpayers' choice to use it -- I'm  
3 sorry. It's a taxpayer's choice to use a preparer if  
4 they wish, but we want to make sure they understand the  
5 costs involved and what's available to them now.

6 MS. FALLON: So we thought it would be useful if  
7 we reminded you of what our tax assistance system and  
8 our VITA finder looked like our last season. This is a  
9 screen shot of FTB's Web site. And if you press that  
10 button, asking you to go to find a site, it will take  
11 you to the IRS Web page, where you pop in your ZIP code,  
12 and it will find a location for you in your area.

13 Now I'm going to let Jacob unveil the new tax  
14 assistance site on the Cal EITC Web site.

15 MR. ROPER: Which, unfortunately, I don't have a  
16 picture to share with you. But it doesn't  
17 necessarily -- it's not a bad thing.

18 The development of this site is on schedule.  
19 What most VITA sites are doing right now is beginning,  
20 in earnest, the training process. They will begin to  
21 report in their site information to the IRS, and we will  
22 get it from the IRS sometime later this month, but  
23 definitely by January.

24 We also are expanding what we currently do with  
25 VITA site finders. Currently the Franchise Tax Board

1 has been receiving information from the IRS about  
2 individual VITA sites throughout the filing season.  
3 What we're doing this year is also expanding it to allow  
4 our partners to report their own site information, that  
5 might be more than what they share with the IRS. This  
6 will give them additional opportunities to promote  
7 individual sites that may not be listed on their  
8 information with the federal government. And we're  
9 promoting that, and we are making sure that our  
10 community partners can use that as an opportunity for  
11 their marketing.

12 MS. FALLON: So while our coalition partners are  
13 busy standing up that act, they are also busy finishing  
14 up the communication plan, a holistic plan that includes  
15 everyone, every partner's outreach efforts. And as we  
16 wait for that, FTB has been really busy with our  
17 outreach efforts that will ultimately get folded into  
18 the same plan. For example, we've been -- with the help  
19 of our taxpayer advocate and her staff, we've made  
20 several presentations to tax professionals: Jacob and I  
21 have reached out to the majority and minority leadership  
22 of both houses; one of our VITA staff presented at a  
23 statewide CWDA conference; we met with stakeholders from  
24 the community services department; we've spoken to  
25 several regional nongovernment and United Way events;

1 and as we speak, our very own Tami Grimes is down south  
2 presenting at a multi-day social services workshop, and,  
3 of course, we are also very active in social media.

4 And we have much more on our plate as we look  
5 forward.

6 MR. ROPER: Now, during the filing season, we  
7 normally get a lot of interest from the media, which we  
8 certainly use to promote various services. This year  
9 we're going to use every opportunity that we have to  
10 promote the earned income tax credit, along with  
11 voluntary income tax assistance.

12 We're going to be producing marketing and  
13 instructional videos; again, how-to webinars for our  
14 community partners on tax preparation; as well as  
15 promotional material in physical form, as well as  
16 digital copies.

17 So if a partner in the Inland Empire would like  
18 to receive physical posters, we'll make those available.  
19 But if another partner would like a digital copy to  
20 customize and include on their stationery, for whatever  
21 purpose, we make that available to them too.

22 MS. FALLON: So as you can see, we've been a bit  
23 busy. And this is only the outreach part of the Cal  
24 EITC effort.

25 I want to take an opportunity to give a big shout

1 out to my other friends at FTB, who are implementing all  
2 the changes that need to happen to the tax forms and to  
3 our systems so that we can actually deliver on the  
4 promises of our outreach efforts. And, finally, we  
5 would like to thank each of you -- Madam Chair, Member  
6 Horton -- for your very engaged participation from the  
7 controller's office and Board of Equalization, in these  
8 efforts -- and to the Department of Finance for making  
9 sure that we have the appropriate funding in order to  
10 stand up this credit so very quickly.

11 Now, with that said, I would like to invite you  
12 to ask Jacob any and all questions you would like to --  
13 (Laughter)

14 CHAIRPERSON YEE: First of all, let me just thank  
15 Michelle -- you and Jacob for your leadership.  
16 Obviously with the new program, of Cal EITC, there  
17 wasn't a lot of lead time to get this program up and  
18 running, as we usually would have new programs come in  
19 place.

20 So this, with the added complexity of the  
21 public-private partnership, I think will make for a very  
22 robust and, hopefully, successful filing season for  
23 those that we're targeting. So just want to thank you  
24 and the staff of the Franchise Tax Board.

25 Mr. Horton?

1 MEMBER HORTON: Thank you, Madam Chair.

2 I also want to echo our Chairwoman Yee for -- and  
3 express my appreciation for all the hard work that you  
4 guys are doing. You are doing an exceptional job.

5 How about a round of applause.

6 (Applause)

7 MEMBER HORTON: The -- I have a couple of  
8 concerns I want to share. In looking at the brochure, I  
9 notice here that it says, "What would you do with an  
10 extra \$6,000?" I'm presuming that you are counting the  
11 federal EITC, but the federal EITC is not -- I didn't  
12 see it mentioned in the brochure.

13 MS. FALLON: Actually, the brochure deliberately  
14 doesn't specifically call out the federal EITC because  
15 we didn't want to confuse this audience group. So we  
16 refer to the credits available at the federal and state  
17 levels, or somehow we reference two credits and not just  
18 the one.

19 MR. ROPER: The thinking behind that was, we felt  
20 it would be a mistake to focus only on one credit in our  
21 promotional material, because I think part of the aim of  
22 the earned income tax credit at the state level is to  
23 get as many federal filers participating as possible.  
24 So we wanted to make sure we used one credit to leverage  
25 the other.

1 MEMBER HORTON: I would agree with the logic of  
2 marketing. It does create a certain inconsistency, but  
3 it appears as though they're already printed though.

4 MS. FALLON: Thank you for your input. We're  
5 trying to be very careful to be consistent. So I do  
6 appreciate your comments.

7 MEMBER HORTON: Yeah. I would suggest a  
8 qualifier somewhere, in small print or something.

9 MS. FALLON: We can absolutely do that.

10 MEMBER HORTON: The other point I wanted to make  
11 is that our succes and outreach is -- appears that -- I  
12 mean, I think we're doing a yeoman's job, and we will  
13 have an enormous amount of success. There's inherent  
14 success in the fact that 510,000 folks have already  
15 filed. And so we're excited about that, that these  
16 individuals are actually filers. Those nonfilers is  
17 where our challenge will occur.

18 And so driving 90,000 individuals a year to the  
19 volunteer income tax system or to a paid tax system, the  
20 paid tax system probably can deal with -- and be excited  
21 about getting 90,000 more customers. I necessarily  
22 wouldn't be excited about it because I think the fee  
23 associated with that may be an inherent deterrent for  
24 them participating in the Cal EITC program.

25 But driving into the VITA centers, currently, the

1 volunteer base, the capacity, just simply isn't there,  
2 if 90,000 folks show up. And the other challenge that I  
3 see is that, on the Web site, maybe a statement to call,  
4 to make your reservation in advance. Some of these  
5 centers will have three, four, five volunteers, and just  
6 won't -- if everyone decided to go to the UCLA center,  
7 where there's seven volunteers -- but UCLA sounds pretty  
8 big. You know what I mean? There's going to be long  
9 lines and inabilities to get the job done.

10 With the assistance of Member Yee and other board  
11 members, we've assembled, I believe, somewhere around  
12 400 volunteers through the VITA programs with the BOE  
13 and Franchise Tax Board, and even those centers will  
14 have a huge challenge if -- given our success with the  
15 outreach. If we can -- if the 90,000 folks actually  
16 show up, which I believe they will, to get their tax  
17 returns done, which creates frustration, which, in turn,  
18 adds to the perpetuation of poverty, because, again, we  
19 don't trust government because we showed up and weren't  
20 able to get our returns done.

21 CHAIRPERSON YEE: Thank you, Mr. Horton.

22 I also want to thank the Franchise Tax Board  
23 staff who have engaged in volunteer training. We had a  
24 robust training session in Fresno this last Saturday,  
25 and one of the great things about having all of these

1 partners this time around is that I think we're going to  
2 see some even broader innovative strategies for how  
3 we're going to serve this population and at different  
4 venues too. So we're very much focused on volunteer  
5 recruitment.

6 And for those of you who are out in the audience,  
7 I'm just going to offer this, but we've had some  
8 tremendous responses from -- from our young people --  
9 students at community colleges and others. So it's a  
10 wonderful way to get into the world of taxes and  
11 finance. So I'm going to encourage anyone you know, of  
12 that age group, to participate. But I think we're going  
13 to see a lot of great models come out of this, and I'm  
14 excited about the work that's been completed today.

15 Any other comments?

16 Mr. Roper? Sorry.

17 MR. ROPER: If I could add, fairly quickly.

18 I'm fairly new to the Franchise Tax Board, but I  
19 have learned very quickly that VITA is a source of pride  
20 for a lot of people here. And I can tell you, last  
21 year, an estimated 150 FTB employees signed up to  
22 provide VITA, and we're estimating 200 this year. So  
23 it's pretty exciting.

24 MEMBER HORTON: Thanks.

25 CHAIRPERSON YEE: Good. And that's on top of

1 close to 90 from the state controller's office. So  
2 we're doing well.

3 Good. Thank you. Thank you.

4 Our next item is also an informational item, and  
5 members will stay in place. It's item number 4, and  
6 that's the annual EDR update, and the PowerPoint will be  
7 presented by Cathy Cleek.

8 MS. CLEEK: Good afternoon.

9 CHAIRPERSON YEE: Good afternoon.

10 MS. CLEEK: I'm happy to be here. And this is, I  
11 think, the fourth time I'm giving you the EDR annual  
12 update.

13 And this year, what I would like to -- focus my  
14 presentation on three things: First, I would like to  
15 talk about schedule, budget, and revenue. Just get to  
16 the bottom line, how are we doing; and then I would like  
17 to focus a little bit on what we accomplished last year;  
18 and what we were working on for 2016.

19 So in the past, when I've had -- I always think  
20 of -- when I have staff's picture with me, I feel like I  
21 have some friends as I'm presenting. And this year, I  
22 wanted to focus on support staff. In the past I've  
23 showed you actual FTB people using the system. But  
24 there is almost no one at FTB that hasn't been touched  
25 by EDR in some way. So this year, I wanted to highlight

1 some of the support organizations that have supported  
2 the project.

3         So to start off with, you may recognize a few of  
4 these folks. On the left, is Michael Banuelos, who's  
5 helped us with all the procurements and contract work  
6 we've done; Julie Whitten is sitting beside him on the  
7 left, and she's our strategic planner and helps with  
8 many of our planning efforts and our relationship with  
9 the Department of Technology; moving to the right-hand  
10 side, starting at the back, is Scott Reid. And any time  
11 we get a revenue question and a revenue estimate  
12 question, Scott has been there to answer questions, ask  
13 us hard questions. How did you do this? So we just  
14 greatly appreciate all of his support; and then the next  
15 two people are Marco Esquivel and Jeanne Harriman, who  
16 have been our interface with budgets and working on  
17 BCPs. And a big project like EDR cannot get done  
18 without this kind of support. So thank you to these  
19 folks.

20         So where are we on the schedule? I'm very  
21 pleased to tell you that our final release of EDR is  
22 scheduled for January 4th and that will -- we will be  
23 100 percent complete, and when we looked at the  
24 schedule, we put out four years ago, five years ago, we  
25 planned on being complete in January of 2016. So we are

1 on schedule with our final release. So the next time I  
2 come and talk, you will see a hundred percent complete.

3 So what does 2016 look like? And it's what we  
4 call a warranty year. And people keep asking me, what  
5 does a warranty mean. It's going to be a time that we  
6 fix little defects that we found and also optimize the  
7 system. We will still have over a hundred vendor staff  
8 here, working with us. They will also be teaching us  
9 how to use the new system and do the development work  
10 ourselves.

11 So as far as budget, are we on budget? You can  
12 see, I share -- I'm sharing with you the last four years  
13 and where we are, currently. And the last four years  
14 we've come in either a hundred percent or a 99 percent  
15 of our budget and have not overspent any year, and we  
16 predict the same this year.

17 As of the end of September, we've spent  
18 \$6 million. We have a large vendor payment at the end.  
19 That's why there's quite a delta there. It just takes  
20 six times four.

21 So the next folks that I want to introduce you  
22 to -- They aren't physical, live people, but they are  
23 people that are very familiar with EDR. And we want  
24 people, when we communicate about EDR, to put some  
25 personality into our communication. So we have, on the

1 left, "EDR Red" and "EDR Blue" and their dog, Cali,  
2 short for California. And we have these -- these people  
3 have been part of our communication strategy. Also this  
4 summer, we had flat renditions of EDR Red and Blue, and  
5 people took them on vacation and showed -- brought back  
6 pictures. So this was one of them that -- from Yosemite  
7 that someone went on vacation and had this beautiful  
8 picture to share with us.

9 So the next slide I have is around revenue, and  
10 where are we and -- oh, I wanted to -- would you mind  
11 going back? I think I forgot the most important thing  
12 on this slide, is that we have brought in \$2 billion.

13 (Applause)

14 MS. CLEEK: Thank you.

15 So here is the details. If you look back over  
16 the last four years, you can see, the blue was our  
17 target and the red is what we actually delivered. And  
18 FTB is such a can-do organization. We've been able to  
19 exceed our revenue target each and every year.

20 This year is our first billion dollars that we  
21 have a target for \$1 billion, 1.146 billion, to be  
22 exact. And we are currently at 249 million at the end  
23 of September, and are confident that we will meet our  
24 first billion dollar year.

25 So let's take a look back at what 2015, what we

1 implemented. And the accomplishment that we feel the  
2 proudest about is, we had a new system for processing  
3 personal income tax returns, and this year, we have run  
4 through -- processed 700,000 returns with this new  
5 system. And this is a major change, and we feel very  
6 good about how that system has performed. The one thing  
7 we have learned and -- as we've implemented things with  
8 EDR, is, we like to implement them with a strategy  
9 called crawl, walk, and run. And what that means is,  
10 you start small, then you add more people, and then add  
11 more people.

12           So we've crawled and walked with this system, and  
13 we ran through BDP, which is the October, November time  
14 frame, where we get the last big hump of returns for  
15 2015. So we are ready to go in full run mode in 2016  
16 for the 15 million returns coming.

17           So the next thing that we accomplished in 2015 is  
18 our improved address functionality. And this might come  
19 as a surprise, but FTB receives 2 million pieces of  
20 return mail each and every year. So getting -- you  
21 can't collect amounts, you can't inform people without  
22 having a good physical address for them. So we put a  
23 lot of IT logic and skills to have a much more mature  
24 way of finding addresses for people.

25           So we have two new features that we will be

1 using. One, we call Best and one we call Locate. So  
2 Best is taking any address we have in-house, and then we  
3 rank it best to worst. And if you get a piece of return  
4 mail, it looks for the next best address and remails.  
5 So it's automatic remailing. And if we don't have any  
6 address, we go to Locate, so we go to a third party, the  
7 DMV, IRS, EDD, or LexisNexis. So we will be -- you will  
8 see, over time, many more addresses of that 2 million  
9 getting, actually, to taxpayers in a timely manner. So  
10 we're very excited about that.

11 2016. I've really already alluded to this, is  
12 that our return processing system will be in complete  
13 run. We will have 15 million returns processed through  
14 this new system. Our notices that we mail to taxpayers,  
15 that we've historically called RINs, or returned  
16 information notices, we've renamed them to call them a  
17 notice of tax return change. And they are much, much  
18 clearer. If you get one of these, which I hope you  
19 don't -- (Laughter) -- but they are much clearer and  
20 trying to understand the change that we've made to the  
21 tax return. We've reached out to the enrolled agents  
22 and CPAs and done focus groups with them and have gotten  
23 good feedback on them.

24 Additionally, the earned income tax credit that  
25 you heard about, those rules have been incorporated into

1 the return processing system, and we've added  
2 significant fraud identification rules. So we're  
3 getting the earned income tax credit to true, deserving  
4 citizens.

5 So we also have a new return analysis system or  
6 enhancements for our business entity folks, and the  
7 processing of the returns will be in realtime versus a  
8 batch or overnight process. And this will improve our  
9 user experience and give us more efficiencies in working  
10 this workload. When I met with staff, I got a big yahoo  
11 from them. They were so excited about this  
12 functionality.

13 The thing that's getting a lot of attention for  
14 us right now is getting ready for the launch, the  
15 relaunch of MyFTB. Not that we're counting, but it's 25  
16 days away. And this new MyFTB will have 16 new features  
17 for taxpayers and tax representatives. They will be  
18 able to view their e-filed returns, notices that we mail  
19 to them. They can protest online, and we've enhanced  
20 the security with this system, significantly, and we're  
21 going to ask everyone to start reregistering  
22 January 4th, 2016.

23 So Selvi has been a great supporter of this, and  
24 this is a quote from Selvi that I think sums up one of  
25 our accomplishments in this area, is, "I have a dream

1 that one day all powers of attorney will be able to log  
2 on to MyFTB, see their clients' e-mail account -- see  
3 their clients' accounts, and get an e-mail when their  
4 client gets a notice from FTB." And so we're 25 days  
5 away from this happening. She's heard about that for  
6 the last ten years, since she's been in this job.

7           So this is a group of folks that have been  
8 helping make MyFTB come to life. And these folks have  
9 done the following but not limited to the following  
10 items. They have done the requirements. They have  
11 created videos for us to put on MyFTB, to show people  
12 how to use the system; developed marketing materials;  
13 they are developing procedures; they have developed  
14 training classes; new disclosure training; developed  
15 press releases; and I'm sure that's just the beginning  
16 of what these folks have done.

17           So big technology projects also take technology  
18 staff to learn new skills. And here at FTB, three of  
19 ten of our technology staff will have new skills and new  
20 roles to support the new EDR system. So we've  
21 identified all of these roles and have a target by  
22 December of 2018 to have all the staff ready to support  
23 the system without the vendor. And we're currently  
24 49 percent complete on that effort.

25           So I wanted to put some of the technology

1 folks -- to put a name and a face to them, and --  
2 because they have worked really hard, along with our  
3 service provider, CGI. And this is Anthony Thomas. And  
4 if you need to get access to the new system, he has done  
5 the work behind the scenes to make it so only those with  
6 a need-to-know get access to the new EDR system.

7         So this is Ratnesh Kumar, and if you saw him  
8 today, he might look a little bit more tired than he  
9 looks right here. He is the developer who's developed  
10 all the new security -- developed the security  
11 enhancements for our website and the Web site  
12 functionality. So he has just been a great asset to our  
13 team. I will tell you that he was here the day after  
14 Thanksgiving and he was here all last weekend, making  
15 sure the last minute things are getting done.

16         So huge kudos to him.

17         And one more person I wanted to highlight is, if  
18 you've ever been involved with a big technology project,  
19 always, the last thing to be done is testing. And so if  
20 you are a tester, you get a lot of last-minute work.  
21 And this person, she still looks happy, and she is just  
22 really upbeat. And this is Julie Deltoro (phonetic),  
23 who is one of our lead testers.

24         So in summary, when I think about projects, you  
25 know, a lot gets said about the technology, but it's

1 really the people that really make the big difference  
2 and the big leaps forward that you see out of technology  
3 projects.

4           And you have seen us talk about EDR being about  
5 enterprise data and revenue. But I would like to  
6 highlight to summarize what EDR has done for employees  
7 and taxpayers:

8           So on the employee side, the "E" really stands  
9 for elevated skills. All of us have learned how to do  
10 new things, new ideas, how to get work done in a shorter  
11 time frame than we ever thought possible.

12           "D" is a dynamic workplace, and every six months  
13 we're getting a new release and new -- and additional  
14 functionality for us to use to help taxpayers.

15           And "R" is resourceful to make it happen. Big  
16 projects take a lot of work and a lot of energy. And  
17 the FTB staff -- I just cannot say enough good things  
18 about how resourceful they have been to meet all of  
19 these due dates on time and \$2 billion behind us.

20           For taxpayers, EDR is environmentally friendly.  
21 We are moving into the digital age. We -- all of our  
22 notices can be mailed out electronically via e-mail and,  
23 again, they can view any notice, their returns, on  
24 MyFTB.

25           "D" is for do it yourself. Taxpayers don't have

1 to call us. They can go online and view these new 14 --  
2 or 2016 new functions.

3 And then "R" is for the representatives. There's  
4 new functions such as, their POA can be obtained online,  
5 and they can view all of their clients online.

6 So with that, we're really proud of what we've  
7 accomplished, and we would be happy to answer any of  
8 your questions.

9 CHAIRPERSON YEE: Thanks, Cathy.

10 I think it's fair to say, you make us proud. And  
11 just a terrific effort on the part of the team and, I  
12 mean, just wow. I wish this could be a headline in  
13 terms of what a successful project looks like. And I  
14 know that the taxpayers of California will be  
15 well-served by it.

16 Mr. Horton?

17 MEMBER HORTON: Wow, as the controller has said.  
18 Where do I get two sets of those characters for my  
19 grandbaby? (Laughter)

20 MS. CLEEK: I would love a photo with them.

21 CHAIRPERSON YEE: Are the members of your team in  
22 the audience, by chance?

23 MS. CLEEK: There are a few.

24 CHAIRPERSON YEE: May we ask them to stand?

25 MS. CLEEK: Why don't you ask anyone who's done

1 something with EDR to stand. (Applause)

2 CHAIRPERSON YEE: Anyone who's had a touch of  
3 EDR.

4 The other thing I want to note, too, obviously  
5 within the budget, within the schedule. But just the  
6 tremendous transparency that had been a good part of  
7 this project. I think there are many positive lessons  
8 that can be learned from this project, and I look  
9 forward to the peer report that comes out.

10 MS. CLEEK: Thank you.

11 CHAIRPERSON YEE: Thank you.

12 Anything else, members? Okay.

13 We will now return to the dais for the next item.

14 All right. All right. Members, Item 5 is  
15 regulation matters. We have one action item, which is  
16 the annual rulemaking calendar, and this item will be  
17 presented by Bruce Langston.

18 Good afternoon.

19 MR. LANGSTON: Thank you.

20 The 2016 rulemaking calendar in your material  
21 shows what regulation projects FTB staff plans to work  
22 on during the 2016 calendar year. As required by  
23 Government Code section 11017.6, on a yearly basis, we  
24 provide a board-approved rulemaking calendar to the  
25 Office of Administrative Law, which gives them an idea

1 of the types of items we'll be transmitting to them for  
2 consideration.

3 Board approval of the calendar and any new items  
4 that are identified on it, for which we have not  
5 previously received board approval to begin the informal  
6 regulatory process, would have been approval by the  
7 board to begin the informal regulatory process and hold  
8 interested parties meetings.

9 I ask for the board's approval for the 2016  
10 rulemaking calendar.

11 CHAIRPERSON YEE: Okay. Mr. Horton.

12 MEMBER HORTON: Madam Chair, I move approval.

13 CHAIRPERSON YEE: Okay. Motion by Mr. Horton to  
14 approve our rulemaking calendar for the 2016 year.

15 Is there a second?

16 (No audible "second.")

17 CHAIRPERSON YEE: Seconded by Ms. Ortega.

18 Without objection, such be the order.

19 Thank you.

20 Item number 6 is a resolution for our  
21 consideration. This is an action item. And the full  
22 text of the resolution that's attached to the agenda is  
23 also available on the FTB Web site and is hereby  
24 incorporated into the record. It memorializes the  
25 commitment of the Franchise Tax Board to support the use

1 of state civil employees for unarmed security guards  
2 services.

3 And I believe we have a speaker on this item.  
4 Mr. Guerrero, if you will come forward, please.

5 MR. GUERRERO: Good afternoon, Madam Chair,  
6 Member Horton, and Ms. Ortega.

7 My name is Mario Guerrero. I am the legislative  
8 director for Service Employees International Union Local  
9 1000. And I'm here speaking in favor of the resolution  
10 before us.

11 I want to first start off by thanking the  
12 Franchise Tax Board for its leadership and for giving  
13 serious consideration to supporting state civil service  
14 jobs with livable wages. We ask the board to work with  
15 us to end the contract with Inter-Con Security and to  
16 hire into civil service the Inter-Con guards who already  
17 work here.

18 FTB would be following the footsteps of the Board  
19 of Equalization, which has adopted a similar resolution  
20 earlier this year.

21 There are a number of benefits to insourcing your  
22 security guards. One of these benefits is, as part of  
23 the FTB team, security guards would be loyal to FTB and  
24 not necessarily an outside contractor. FTB can provide  
25 additional training to these security guards as it deems

1 appropriate for its own unique needs. We also believe  
2 that this would go a long way into improving morale at  
3 the workplace.

4 At SEIU, we look forward to working with FTB  
5 towards a date when your security guards can once again  
6 become civil service.

7 Thank you very much.

8 CHAIRPERSON YEE: Thank you, Mr. Guerrero.

9 Comments or questions, Members?

10 MEMBER HORTON: Yes, Madam Chair.

11 CHAIRPERSON YEE: Mr. Horton, please.

12 MEMBER HORTON: Members, I just want to point out  
13 that I've spoken on this issue a number of times, but I  
14 think two key factors that I want to share with members,  
15 as well as the general public, is that having these  
16 employees as civil service employees enhances the  
17 overall -- I believe the overall morale of the  
18 organization, but it's also, the difference can be a  
19 difference between life. It's a life changing  
20 difference when someone is intimately involved in an  
21 organization and, therefore, fully aware of the  
22 intricacies of that organization, the personalities, as  
23 well as the behavior of those individuals. Makes all  
24 the difference in the world and you can distinguish one  
25 individual from another because you are actually engaged

1 with those individuals.

2           So I believe that it makes a fundamental  
3 difference.

4           The other aspect that I want to point out is that  
5 it brings about economic stability because, as the  
6 market fluctuates from time to time, the contract will  
7 also fluctuate. But when we have it internally, there's  
8 an inherent amount of economic stability that is  
9 created, and we have more control over our destiny as  
10 well as the destiny of the employees that are working or  
11 operating within our facilities.

12           CHAIRPERSON YEE: Thank you, Mr. Horton.

13           Other comments, Members?

14           MEMBER ORTEGA: Madam Chair, just in recognition  
15 that this issue is likely something that the Department  
16 of Finance would be involved with in the future  
17 discussions. I'm going to abstain on this action.

18           CHAIRPERSON YEE: Okay. Very well. Thank you,  
19 Ms. Ortega.

20           Let me just say, this is really going to be an  
21 ongoing discussion with respect to -- hopefully looking  
22 at this as a broader statewide strategy for how we do  
23 bring security guard services into the civil service  
24 system. And, with that, I would like to entertain a  
25 motion on the resolution and furtherance of those

1 discussions.

2 MEMBER HORTON: Move adoption of the resolution,  
3 Madam Chair.

4 CHAIRPERSON YEE: Motion by Mr. Horton. The  
5 Chair seconds with Ms. Ortega abstaining.

6 Without objection, such will be the order.

7 Thank you.

8 Okay. Our next item is item number 7,  
9 administrative matters. This item has two subitems that  
10 will be presented by Michael Banuelos, and the first  
11 item is a contracts issue.

12 Good afternoon.

13 MR. BANUELOS: Good afternoon, Madam Chair and,  
14 good afternoon, fellow Board Members.

15 Please bear with me. I think I'm still a little  
16 traumatized in seeing my big, giant picture. Had I  
17 known that, I would have sat in the back of the room.  
18 But I'm very appreciative of Cathy acknowledging many  
19 people, but the whole department has been part of EDR so  
20 that's always --

21 CHAIRPERSON YEE: Thank you for your support of  
22 the initiatives.

23 MR. BANUELOS: So today I'm here to present the  
24 administrative items -- the administrative for your  
25 review. The first item I will present pertains to a

1 security guard contract which has to do with the  
2 resolution that you just spoke of.

3           So as we work with our control agencies on the  
4 commitment outlines in the board's resolution, we will  
5 need to continue contracting out for these services in  
6 order to protect our great staff as well as the valuable  
7 assets that we have here at FTB.

8           So I'm here today -- here today to ask for your  
9 approval to continue contracting for security guard  
10 services for a period of two years, at an estimated  
11 total of \$3.2 million per year. And to shed a little  
12 background on this, similar to many other state  
13 agencies, FTB uses the California Highway Patrol's  
14 Master Agreement to contract for these services. The  
15 CHP is in the process of extending their current master  
16 agreement until June 2016, while they work on putting a  
17 new master agreement in place.

18           So the request I am making today for you is  
19 twofold: We would like approval to extend FTB's  
20 existing contract through June 30th, 2016, or until such  
21 time that the new master agreement is available, and we  
22 would also like approval to enter into a new agreement  
23 when the new CHP Master Agreement is in place. This  
24 contract, however, will be conditioned upon FTB's  
25 approval of the terms and conditions, including

1 cancellation provisions outlined in the new master  
2 agreement.

3 So at this time, I'm happy to answer any  
4 questions you may have regarding this request.

5 CHAIRPERSON YEE: Thank you Mr. Banuelos.

6 Given the action on the resolution just  
7 previously, I assume that the agreement still has the  
8 termination clauses?

9 MR. BANUELOS: That is correct. Our existing  
10 agreement, which we would just be extending, has the  
11 standard 30-day cancellation clause, and I believe the  
12 new master agreement will also have that clause.

13 CHAIRPERSON YEE: Okay. Thank you.

14 Questions? Mr. Horton?

15 MEMBER HORTON: Madam Chair, I hesitate a little  
16 bit but I'm going to be supportive. The open end aspect  
17 of this, given the negotiations of the settlement  
18 agreement for six months, and not knowing what the terms  
19 and conditions really are, until that's been resolved,  
20 but with the qualifiers that you put in there relative  
21 to the termination of the agreement, I think that's  
22 protective of the agency as well as the board. And with  
23 that in mind, I move approval of the item as stipulated.

24 CHAIRPERSON YEE: Okay.

25 MEMBER ORTEGA: Second.

1 CHAIRPERSON YEE: I will move approval by  
2 Mr. Horton. Second by Ms. Ortega.

3 Without objection? And that's on both parts of  
4 the --

5 MEMBER HORTON: Yeah.

6 CHAIRPERSON YEE: -- of the recommendation.  
7 Without objection, such will be the order.

8 MR. BANUELOS: Okay. Thank you very much.

9 CHAIRPERSON YEE: Thank you.

10 MR. BANUELOS: I'm also going to be presenting  
11 two facility action items requests for your  
12 consideration and approval. With your permission I will  
13 go over the items and then answer questions you may  
14 have.

15 So the first request is related to the data  
16 centers on our FTB central office campus. FTB is  
17 requesting the board's approval to submit a request for  
18 DGS to perform work needed to increase the height of  
19 FTB's data center door openings. FTB is expecting a  
20 large number of equipment moves in the next few years,  
21 requiring the movement of large IT racks and other  
22 equipment into and out of the data center, and the  
23 current height of the doors does not accommodate the  
24 height of the racks. So it's really two issues:  
25 There's trouble getting the equipment sometimes in and

1 out of the rooms, but we're also concerned about health  
2 and safety issues for our employees who are figuring out  
3 alternate ways to get the equipment into the room.

4 And the second action item is related to our San  
5 Jose Field Office, and this is a twofold request: FTB  
6 is requesting the board's approval to submit a request  
7 to DGS to relocate a conference room to another location  
8 which is closer to the existing FTB suite. FTB will not  
9 lose or gain additional square footage nor will there be  
10 a rent increase associated with this change.

11 And also, related to the San Jose Field Office,  
12 we're requesting approval to formally ask DGS to begin  
13 working with us on the process of renewing our lease for  
14 the San Jose Field Office. Our existing lease expires  
15 in September of 2017, and, as a standard practice, DGS  
16 suggests that we start the renewal process approximately  
17 18 to 24 months before the expiration of the lease.

18 So at this time I'm happy to answer any questions  
19 you may have regarding these requests.

20 CHAIRPERSON YEE: Thank you. Questions?

21 MEMBER HORTON: Madam Chair?

22 CHAIRPERSON YEE: Yes, Mr. Horton.

23 MEMBER HORTON: Members, to some degree, I sort  
24 of view these items as administrative in nature and  
25 question why they come before the board other than the

1 transparency, sort of, aspect of it and an approval or  
2 nonapproval perspective. I would think that they would  
3 be embodied in the duties delegated to the executive  
4 officer given the minuteness of it, and in one case  
5 there's no additional costs. All we're basically doing  
6 is moving one conference room to another, no change in  
7 benefits, no change in square footage of the building.

8         The second is just making a door bigger, a larger  
9 door, without no [sic] significant change in increase in  
10 costs. And then the renewing of the lease, the lease  
11 beginning the process, is somewhat innate unless there's  
12 something controversial. But you know, I would submit  
13 to you, Madam Chair, as to how to deal with that in the  
14 future.

15         CHAIRPERSON YEE: Okay. Let me ask staff to take  
16 a look at that issue for the future. But I think it's  
17 been our standard practice just to have these facility  
18 action requests come before the board.

19         MR. BANUELOS: I can expand a little bit on  
20 that --

21         CHAIRPERSON YEE: Yes.

22         MR. BANUELOS: -- because it goes back, and we  
23 certainly wouldn't have taken this as an action item to  
24 look at it.

25         CHAIRPERSON YEE: Yes.

1 MR. BANUELOS: But it goes back to the board's  
2 resolution probably close to 20 years ago --

3 CHAIRPERSON YEE: Yes.

4 MR. BANUELOS: -- where it was envisioned that  
5 any time we submit a formal request to the Department of  
6 General Services, the board had asked us to come and get  
7 permission to do that first. So we will go back and  
8 work with legal and look at those, to see if any changes  
9 can or should be made.

10 CHAIRPERSON YEE: Sure. That would be terrific.  
11 And for the will of Mr. Horton, I would tend to agree  
12 that for some of these more administrative matters, that  
13 they would be in order to be delegated to our executive  
14 staff.

15 Okay. Very well.

16 MEMBER HORTON: Move approval.

17 CHAIRPERSON YEE: With that in mind, we have a  
18 motion by Mr. Horton.

19 MEMBER ORTEGA: Second.

20 CHAIRPERSON YEE: Second by Ms. Ortega.

21 Without objection, such will be the order.

22 Thank you.

23 MR. BANUELOS: Thank you very much, Board  
24 Members.

25 CHAIRPERSON YEE: Thank you.

1           Okay, Members. We're now on to Item 8. And this  
2 is the Annual Taxpayer Bill of Rights hearing, as  
3 required by section 21006 of the Revenue and Taxation  
4 Code. The purpose of this hearing is to allow taxpayers  
5 and tax practitioners the opportunity to present  
6 directly to the board any proposals they may have for  
7 changes in existing state income or franchise tax law,  
8 or for improvements in FTB publications or FTB services  
9 to address areas of recurrent taxpayer noncompliance.  
10 FTB staff is available to respond to questions, which  
11 may be raised as a result of taxpayer proposals.

12           We do have present today Selvi Stanislaus, our  
13 executive officer; Pat Bittner, deputy chief counsel;  
14 Gail Hall, director of our Legislative Services Bureau;  
15 and Susan Maples, our taxpayer rights advocate.

16           Staff will analyze the fiscal and administrative  
17 consequences of the proposals presented. And as I call  
18 your name, please come forward, and as you do make your  
19 way up to the front row, I have signed in Kathryn Zdan  
20 with Spidell Publishing; Vicki Mulak, National  
21 Association of Enrolled Agents; and Gina Rodriguez with  
22 CalTax; if you will come forward.

23           And as you do, Susan, do you want to make some  
24 opening comments?

25           MS. MAPLES: Yes, thank you, Madam Chair.

1 I just wanted to take a few minutes to  
2 acknowledge my staff as well as the staff of executive  
3 and advocate services. This has been a year of  
4 transition for all of us, and I really appreciate the  
5 enthusiasm and the dedication that they have shown me,  
6 as well as our external stakeholders.

7 I also want to thank Selvi and your board for  
8 your support throughout the year. Your commitment to  
9 the balance -- your commitment to the balance between  
10 the Taxpayer Bill of Rights and the FTB's obligation to  
11 collect the proper amount of tax owed is extremely  
12 important and very much appreciated.

13 Finally, I want to thank my partners in the  
14 community. Having the support and trust of taxpayers,  
15 tax professionals, and trade media is key to my success  
16 as an advocate. However, the hearing today is to allow  
17 these external stakeholders to present any issues they  
18 have to your board. My commitment is to respond to all  
19 of the issues raised today, in writing, and make sure  
20 they are posted to our Web site no later than  
21 February 1st of 2016.

22 CHAIRPERSON YEE: Thank you, Susan.

23 So let me have, first come up -- let's see,  
24 Kathryn, why don't you come up --

25 MS. ZDAN: Hello.

1           CHAIRPERSON YEE:  -- and you will have about  
2 three minutes to present.

3           MS. ZDAN:  Okay.  My name is Katherine Zdan.  I'm  
4 here today on behalf of Spidell Publishing.  And first,  
5 before I start, I wanted to thank the board for all of  
6 the hard work that has been done on the MyFTB account  
7 project and also especially for helping Spidell to get  
8 information out to the practitioners.  It's been really  
9 helpful.

10           So also, I want to say thank you for the work  
11 that has been done on the issue that we have raised last  
12 year, which was regarding real estate withholding  
13 payment application problems.  And this year, we just  
14 have one issue that we would like to bring to the  
15 board's attention, and it has to do with the time that  
16 it takes between when a taxpayer walks away from an  
17 entity and when they are able to invoke "Ralite" to  
18 avoid transferee liability.  And we know that there are  
19 statutory timeframes involved at certain points in the  
20 process, but it takes a really long time.  And so we  
21 were hoping that the board would consider some options  
22 to perhaps expedite the process for certain taxpayers  
23 who cannot be held liable under "Ralite."

24           So we have some suggestions, and we would be  
25 interested in working with the board in the future to,

1 you know, make this happen. For example, if it could be  
2 possible for taxpayers to contact the Franchise Tax  
3 Board, if they know for certain that they cannot be held  
4 liable under the provisions of "Ralite," and then get  
5 them into some kind of expedited program to see through  
6 to resolution. We think that it would be helpful for  
7 not only taxpayers but also for the board to just kind  
8 of circumvent some of the time and effort that's spent  
9 contacting taxpayers who ultimately are not to be held  
10 liable.

11 CHAIRPERSON YEE: Thank you.

12 Any response at this time?

13 MS. MAPLES: I know this is an issue that we've  
14 talked about in the past. And I'm fully committed to  
15 working with Spidell to see what we can do with regards  
16 to these entities that are formed and then never  
17 launched, is an issue that has also been brought up by  
18 the California Society of Enrolled Agents. So it's  
19 definitely something that we acknowledge is an issue and  
20 we would welcome to work with Spidell in finding some  
21 solutions.

22 So thank you.

23 MS. ZDAN: Okay. Thank you so much.

24 CHAIRPERSON YEE: Okay. Thank you, Kathryn.

25 All right. Our next speaker, Vicki.

1           If you will introduce yourself formally for the  
2 record. You have three minutes.

3           MS. MULAK: Good afternoon. My name is Vicki  
4 Mulak. I'm an enrolled agent as well as a Certified  
5 Financial Planner, but I'm representing the California  
6 Society of Enrolled Agents today.

7           We did submit a formal letter, and we had three  
8 thank yous and three on our Christmas wish list, and our  
9 three thank yous were for the work that's being done  
10 currently on passthrough entity withholding, and I know  
11 it's on the rulemaking calendar, and, for that, we are  
12 especially grateful, because it's a thorn in our side in  
13 the tax season, is getting people's withholding credited  
14 to their accounts.

15           Our second thank you was for working on the  
16 unclaimed withholding credits, which we found out there  
17 was a significant amount out there. So thank you for  
18 that.

19           And also, thank you for the EDR enhancements.  
20 For practitioners, Christmas comes on January the 4th  
21 this year. (Laughter)

22           Now our three wish list items: The first one has  
23 been articulated well by the Spidell speaker. One  
24 aspect of a never launched entity is, they can always  
25 consider an offer and compromise, but, from our

1 practitioner perspective, that's a expensive way,  
2 because they can't easily do these presentations  
3 themselves, and they would require a practitioner, or we  
4 have to work pro bono for these no asset entities.

5         And so we would request a permanent solution.  
6 I've been coming up here for a very long time and  
7 spending -- my entire year, I've been in the tax  
8 business 30 years now. So I would like to see this one  
9 resolved before I get out of the tax practice.

10         The second one is kind of a novel concept that  
11 came out of our membership, and it's about single member  
12 LLCs, who don't have a business entity filing  
13 requirement with the federal government, but they do  
14 have one with the state of California. And we find that  
15 that standalone 568 form is commonly missed, and it's  
16 missed even when they are using practitioners, and we,  
17 at first, suggested that there be work done with the  
18 computer tax processers on that and maybe a lot of  
19 diagnostics and software.

20         But we have since come up with what we think  
21 might be a better solution, and that would be, if they  
22 could do their 568 filing requirement concurrent, or  
23 simultaneous, with their 540 filing requirement, and  
24 have a schedule that simulates what they are doing now  
25 with their 540.

1 I kind of think the single member LLC that's  
2 individually owned, rather than corporately owned, is  
3 kind of discriminated against for tax purposes. I don't  
4 really believe the feds should have ever put them on  
5 Schedule C, which, to me, is the unlimited liability tax  
6 form. But that's what we have -- the disregarded entity  
7 approach, and it creates a problem for them, for state  
8 purposes, to fill out just two pages, I believe, of the  
9 568.

10 So I think that could be coordinated as a form  
11 right with the 540, and it might even save processing  
12 times for the Franchise Tax Board.

13 And our third and last has to do with some  
14 confusion that we see out in the field regarding  
15 California Disasters. This year was really a bad year  
16 with the Valley Fire and the Butte Fire. And the  
17 Franchise Tax Board has a terrific publication on  
18 disasters, but we did notice a discrepancy in that the  
19 feds are reporting on their Web site, the IRS's Web  
20 site, that both fires are eligible for federal disaster  
21 law treatment, but the Franchise Tax Board is reporting  
22 in their publication -- they have a beautiful chart and  
23 it says that just one of the fires is eligible, which is  
24 Valley, and that Butte is not, for what is called the  
25 federal loss throwback election, which allows them to

1 carry their loss to the prior year returns' state  
2 refunds.

3 I don't know if it's an oversight or what the  
4 issue is, but the IRS Web site is in controversy. So we  
5 were wondering if that could be explained, especially  
6 with the disaster legislation now, that doesn't require  
7 any legislation. So they can work on these tax returns  
8 this upcoming season by April 15th, because we no longer  
9 have the need for a legislative bill for each disaster,  
10 which we used to have.

11 And that would conclude our three items.

12 CHAIRPERSON YEE: Thank you very much. Susan,  
13 any response to that?

14 MS. MAPLES: I just wanted to comment on the  
15 single member LLC issue. Thank you for bringing that to  
16 us. We're going to be developing -- or putting together  
17 departmental team to look at that. And we hope to have  
18 some proposals out, you know, by maybe mid spring, and  
19 then we would look for your partnership, once again, to  
20 help us, to see whether or not any of the proposals that  
21 come up might be some workable solutions to that issue.  
22 So thank you for bringing that to our attention.

23 MS. MULAK: Thank you.

24 CHAIRPERSON YEE: Thank you.

25 MS. MULAK: Thank you.

1 CHAIRPERSON YEE: Gina.

2 MS. RODRIGUEZ: Thank you, Madam Chair and  
3 Members. Gina Rodriguez on behalf of the California  
4 Taxpayers Association. First CalTax would like to thank  
5 Susan Maples, Chris Smith, who's sitting behind me, and  
6 her staff for their commitment to protecting taxpayer  
7 rights. Your efforts help taxpayers comply with very  
8 complicated tax laws and also serve to lower government  
9 costs. So thank you for your commitment.

10 CalTax does have five issues to present. In the  
11 interest of time, I will be presenting four, just  
12 walking you through them. I've explained each of the  
13 five issues in detail, in a letter that Susan has, and  
14 has provided to the board.

15 The first is an issue that we had brought to the  
16 board's attention for the last two bill of rights  
17 hearings, and that is the high backlog of audits,  
18 protests, refund claims, and appeals. Certainly, CalTax  
19 appreciates the efforts that the FTB staff has made so  
20 far in reducing the inventory levels. However, the slow  
21 resolution of the compliance inventory, especially  
22 refund claims, remains the number one complaint from  
23 CalTax members.

24 The 2013 Taxpayer Bill of Rights annual report to  
25 the legislature actually documented a correlation

1 between the very punitive 20 percent large corporate  
2 understatement penalty, also known as the LCUP, and an  
3 increase in the FTB's refund claimed inventory.

4         The LCUP, as you will recall -- some of you will  
5 recall -- was enacted in 2008 pursuant to the a budget  
6 trailer bill. It was designed to raise revenue during  
7 the state's budget crisis. And now that the budget is  
8 stabilized, however, the FTB should step forward to the  
9 legislature to explain the financial consequences of the  
10 this egregious penalty. CalTax would like for the board  
11 to move forward with a workable solution to reduce the  
12 compliance inventory level, especially the refund  
13 claims, and we do stand ready to assist the FTB.

14         Secondly, the FTB interest miscalculation.  
15 Earlier this year, CalTax met with FTB management to  
16 make them aware of the agency's miscalculation of  
17 interest that caused thousands of taxpayers to be  
18 overcharged for at least two decades. FTB is in the  
19 process of releasing refunds -- thank you very much --  
20 to affected taxpayers whose statute of limitations has  
21 not expired.

22         However, the FTB's ability to refund overcharge  
23 interest appears to fall within the purview of the  
24 technical advice memorandum, one of their TAMs, 2007-1,  
25 which does allow refunds outside the statute of

1 limitations when the FTB does collect more than the  
2 amount due from the taxpayer as a result of an FTB  
3 clerical or mathematical or mechanical error. This  
4 particular TAM was used to refund single member --  
5 certain single member LLCs who were improperly imposed a  
6 penalty. Those taxpayers got a refund for both inside  
7 and outside the statute of limitations and we think the  
8 FTB has authority to use the TAM for this purpose.

9 CalTax, therefore, respectfully requests that  
10 refunds be made to all taxpayers who are overcharged  
11 interest, whether or not their statute of limitations  
12 have expired.

13 Third, and this one is popular nationally. The  
14 per partner, per shareholder penalty. Failure to timely  
15 file a California passthrough entity return not only  
16 results in the imposition of a late filing, but also the  
17 per partner, per shareholder penalty. And for  
18 passthrough entities with many owners, the penalty is  
19 significant. But the penalty does not fit the crime.  
20 In 2015, more than 20 percent of the FTB's filing  
21 enforcement notices were issued to business entities  
22 with out-of-state addresses. Because of the FTB's  
23 increased efforts, out-of-state passthrough entities,  
24 and, again, this includes LLCs, partnerships, and S  
25 corporations, are being assessed tens of millions of

1 dollars in penalties, and many of these businesses have  
2 a tax liability of just \$800.

3           So again, the penalty does not fit the crime.  
4 CalTax respectfully requests that the FTB seek  
5 legislation to revise and amend the per partner, per  
6 shareholder penalty, and to develop written policies to  
7 assist passthrough entities and their owners with  
8 meeting the reasonable cause exception.

9           And finally, the 23036(i) credit limitation. In  
10 1997, California conformed to the federal LLC  
11 classification rules, known as the check-the-box  
12 conformity. At that same time, the legislature placed a  
13 limit on credits from these -- from these disregarded  
14 LLCs that are reported on the owner's return, and that  
15 was done in 23036(i).

16           At the time of the check-the-box conformity,  
17 corporate credits could be utilized only by the entity  
18 that generated the credit. Well, subsequent legislation  
19 in 2008 established a new policy that allows unitary  
20 affiliates to assign credits among unitary group  
21 members. And with this new policy, a C corporation  
22 subsidiary, for example, is able to share or assign its  
23 credits with its parents or any affiliates. In light of  
24 the existing credit assignment regime, application of  
25 the 23036(i) limitation is inconsistent with declared

1 legislative intent. In other words, now that a C  
2 corporation subsidiary can assign its credits to an  
3 affiliate, it is inconsistent policy to not also allow a  
4 disregarded LLC subsidiary to do the same.

5 This is a trap for the unwary. It poses some  
6 significant compliance challenges for taxpayers, and  
7 CalTax respectfully requests that the FTB review its  
8 credit limitation policy and take appropriate steps to  
9 address and resolve this discrepancy. And I thank you  
10 very much for your time.

11 CHAIRPERSON YEE: Thank you very much, Gina.

12 MS. MAPLES: I just wanted to address that per  
13 partner, per shareholder penalty and let you know that  
14 this has been a project that I've been working on for a  
15 number of months now, not only looking for legislative  
16 relief, but also working on ideas for education and  
17 outreach for taxpayers outside of our state.

18 But also working closely with our legal division  
19 to find avenues of relief for those taxpayers that are  
20 affected by this penalty.

21 So I appreciate your comments. Thank you.

22 MS. RODRIGUEZ: Thank you, Susan.

23 CHAIRPERSON YEE: Thank you, Susan.

24 Any other speakers wish to come forward?

25 Yes, comments. Mr. Horton?

1 MEMBER HORTON: Madam Chair, I just -- when they  
2 were speaking about disaster relief, it just came to  
3 mind the exceptional job that the governor is doing in  
4 relationship to the disasters throughout the state of  
5 California. He's been engaged in as well as  
6 compassionate, and you see him on the front line, which  
7 is always encouraging when you see the leader of the  
8 great state of California engaged in those disasters  
9 relief. So I just wanted to give him kudos.

10 CHAIRPERSON YEE: Thank you very much,  
11 Mr. Horton.

12 Okay. Now move on to item 9. That's the  
13 executive officer's time.

14 EXECUTIVE OFFICER STANISLAUS: Nothing to report  
15 at this time.

16 CHAIRPERSON YEE: I'm sorry?

17 EXECUTIVE OFFICER STANISLAUS: Nothing to report.

18 CHAIRPERSON YEE: Nothing to report? Okay.

19 Then we move on to item number 10. Board  
20 members' time. Members? An opportunity to raise  
21 matters? Comments?

22 MEMBER HORTON: Quick, Madam Chair.

23 CHAIRPERSON YEE: Yes, Mr. Horton?

24 MEMBER HORTON: To all of our team members, as  
25 well as those who visit us, and those that we engage

1 with periodically, and so forth, have a wonderful,  
2 wonderful holiday and a safe and prosperous new year.

3 CHAIRPERSON YEE: Thank you, Mr. Horton.

4 Let me just add, it's always nice to be back here  
5 at the Franchise Tax Board and a -- and a delight to  
6 work with the team here. But I just want to thank the  
7 entire Franchise Tax Board staff for -- and really under  
8 Selvi's leadership and that of the executive team and  
9 the governance council for the tremendous commitment to  
10 excellence. I mean, I just have to say, when the IRS  
11 looks forward to, you know, really taking advise from  
12 the FTB, that's telling you something.

13 But it really does speak to the high level of  
14 professionalism, but, really, the commitment to  
15 operational excellence that I think is one of the best  
16 in state government. And I'm just very proud to be a  
17 part of this organization, and also want to add my  
18 wishes to all of you for a very merry Christmas and  
19 happy Hanukkah and happy Kwanzaa. It's a very,  
20 unfortunately, dark world for many in our communities  
21 and our state and our nation, and it's nice that all of  
22 us here can shine a little bit of light and continue to  
23 spread hope to those in need.

24 Thank you.

25 MEMBER HORTON: Well said.

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CHAIRPERSON YEE: With that, any other further  
business to come before the board?

Okay. Hearing none, the meeting -- this meeting  
of the Franchise Tax Board is hereby adjourned.

Thank you all very much. Happy holidays.

(Proceedings concluded at  
2:55 p.m.)

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CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of December 2015.

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