

STATE OF CALIFORNIA  
FRANCHISE TAX BOARD

PUBLIC MEETING

WEDNESDAY, SEPTEMBER 4, 2013

GERALD GOLDBERG AUDITORIUM

9646 BUTTERFIELD WAY

SACRAMENTO, CALIFORNIA

REPORTED BY:

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ATTENDEES

BOARD MEMBERS:

- MARCY JO MANDEL, DEPUTY STATE CONTROLLER
- JEROME E. HORTON

STAFF:

- SELVI STANISLAUS, EXECUTIVE OFFICER
- JEANNE HARRIMAN
- BRUCE LANGSTON
- ROBERT MORENO
- COLLEEN BERWICK

COUNSEL:

- JOZEL L. BRUNETT

AUDIENCE PARTICIPANTS:

- DAVID R. DOERR, California Taxpayers' Association

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SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 4, 2013, 1:57 P.M.

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

Would the secretary please call the roll to determine if a quorum is present?

MS. BERWICK: Member Horton.

MEMBER HORTON: Here.

MS. BERWICK: Member Matosantos.

Deputy Controller Marcy Jo Mandel for Chair Chiang.

CHAIRPERSON MANDEL: Here.

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

The public has 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.

Because at this time Ms. Matosantos has not yet made it to the meeting, I'm going to move first to Item 4, the administrative matters, and we're going to

1 take up the 2014/15 budget change proposals.

2 I do have a speaker signed up for these, for  
3 proposals No. 2, 3, and 4. So, you know, just to make  
4 sure everybody's synced in, let's go and take those  
5 three after the other ones. And we have Jeanne Harriman  
6 here to present to BCPs.

7 MS. HARRIMAN: Thank you. Hello. My name is  
8 Jeanne Harriman of the Financial Management Bureau. I  
9 am presenting Item 4, administrative issues.

10 Item 4 includes six budget change proposals that  
11 will be submitted for your approval today for resource  
12 needs in fiscal year 14/15. In addition, Item 4a  
13 includes an informational item on BCP No. 1 related to  
14 the EDR project.

15 FTB has received approvals to submit this BCP  
16 late to Finance through October 4th of 2013 so that FTB  
17 has the opportunity to evaluate the project midterm and  
18 also consider the workloads that we'll be doing during  
19 fiscal year 14/15. In an effort to do that, the BCP is  
20 currently under discussion and development in order to  
21 make sure that those two items are matched up and we  
22 request the level of resources that we need for the  
23 14/15 year.

24 CHAIRPERSON MANDEL: Okay. And does that one,  
25 when you do submit it, since we don't have a board

1 meeting, it gets submitted how?

2 MS. HARRIMAN: It will be submitted in December  
3 at the board meeting for your approval at that point in  
4 time.

5 CHAIRPERSON MANDEL: Okay. So it goes in pending  
6 board approval?

7 MS. HARRIMAN: Correct.

8 CHAIRPERSON MANDEL: Any questions on EDR?

9 No. Okay. All right.

10 Then let's go to BCP No. 5.

11 MS. HARRIMAN: All right. The remaining BCPs are  
12 presented for your approval. BCP No. 5 deals with data  
13 security, covers the cost associated with continuing to  
14 ensure we are effectively and adequately deploying  
15 security measures to maximize our ability to protect the  
16 data and assets that we are entrusted to keep safe on  
17 behalf of the state of California and California  
18 taxpayers.

19 This proposal covers two separate efforts. The  
20 first effort is to augment our existing staff by seven  
21 positions in fiscal year 14/15 at a cost of \$800,000.  
22 FTB has deployed a major -- a multilayered defense  
23 against would-be cyber attackers. However, as our  
24 applications and our systems grow and cyber crime  
25 continues to escalate in number and in magnitude, FTB is

1 requesting these additional resources to ensure that we  
2 are able to adequately monitor, secure our systems and  
3 applications from attack. These resources will detect  
4 and respond to attacks and attempted breaches, conduct  
5 audits of suspicious activity, and ensure our physical  
6 campus as well as our online presence is secure from  
7 possible unwanted attacks or activities.

8           The second effort. FTB is seeking one-time  
9 funding in 14/15 of 1.8 million, an ongoing funding of  
10 \$546,000 and two positions starting in fiscal year 15/16  
11 to procure and install a data security monitoring and  
12 auditing system. This request is supported under  
13 feasibility study report 13-02 which has been approved  
14 by the California Government Operations Agency and is  
15 pending approval at the California Department of  
16 Technology.

17           The IRS requires FTB to proactively monitor  
18 realtime user activities on our databases and file  
19 servers. FTB's current process to do this is a manual  
20 process, many times occurring after suspicious events  
21 have occurred. Being able to perform this function in  
22 realtime is required to be in compliance with IRS  
23 safeguards and provides the greatest security  
24 protection. With these resources, FTB mitigates  
25 substantial risks and potential costly threats to the

1 confidential data and assets we are entrusted with.

2 At this time I'm happy to answer any questions  
3 you have.

4 CHAIRPERSON MANDEL: Any questions on the data  
5 security?

6 No? Okay.

7 No. 6.

8 MS. HARRIMAN: All right. Very good. BCP No. 6  
9 deals with the tax gap effort. Request 23 positions  
10 effective for 2014/15 and \$1.86 million, and 24  
11 positions and \$1.8 million in 2015 to continue our  
12 efforts to combat the tax gap. These resources will  
13 generate 13.9 million in revenue for 2014/15 and 20.4  
14 million in revenue for 15/16 and ongoing.

15 California's tax gap has grown to over 10 billion  
16 over the years. The tax gap is in essence what  
17 taxpayers should pay versus what is actually paid. And  
18 the number of 10 billion, some of it is associated with  
19 the underground economy and others are typically  
20 associated with those activities where taxpayers failed  
21 to file, make errors on their returns, overdeductions,  
22 or understatements of their items.

23 FTB remains committed to adjusting the tax gap.  
24 Although we may never completely close the gap tax, our  
25 efforts, and your continuing support, as we address this

1 effort fosters a sense of fairness in our systems of  
2 taxpayers, of taxation for taxpayers who are willing to  
3 comply, and helps the tax gap from growing any faster.

4           This proposal addresses three efforts. The first  
5 addresses our effort to work with taxpayers to correctly  
6 report federal adjustments on their California return  
7 and conducting audits on statutory workloads generally  
8 providing a 4:1 cost benefit ratio. The revenue  
9 mentioned earlier is coming from these activities.  
10 Audit workloads and resource levels have changed over  
11 the past years and FTB remains committed to ensuring the  
12 resources we have are placed on the most worthy efforts.  
13 Ensuring taxpayers have the information necessary to  
14 apply their federal adjustments to the California return  
15 and ensuring California taxpayers have sufficient  
16 information to understand how to report items on their  
17 return continues to be a goal for FTB. These resources  
18 will allow us to continue to work with taxpayers.

19           The second effort focuses on ensuring adequate  
20 resources are available to effectively implement the  
21 withhold at source program. FTB is requesting two audit  
22 resources at 170,000 ongoing cost resulting in the  
23 generation of 1 million in revenue annually. Resources  
24 for this program work directly with withholding agents  
25 so ensure they understand their withholding and filing

1 requirements. This area of law continues to be a highly  
2 unknown area of law and these resources are critical to  
3 ensuring we are able to do that.

4           The third effort focuses on FTB's implementation  
5 of e-file for estates and trusts, comparable to the IRS  
6 rollout of their federal e-file program in January of  
7 this year. Processing an electronic return is generally  
8 much cheaper than the cost of processing a paper return.  
9 Additionally adopting consistent practices at the  
10 federal and state level enhances the ability of  
11 taxpayers to comply with the filing requirements at both  
12 levels.

13           FTB is currently developing the e-file program.  
14 However, adequately serving these taxpayers who have  
15 questions or who are having trouble e-filing a return,  
16 FTB is requesting these ongoing resources of three  
17 positions at a cost of 259,000.

18           At this time I'm happy to answer any questions.

19           CHAIRPERSON MANDEL: Any questions on the tax gap  
20 BCP?

21           No. Okay.

22           Thank you.

23           Can you talk about No. 7, asset forfeiture  
24 accounts.

25           MS. HARRIMAN: Yes. BCP No. 7 is requesting

1 budget authority for FTB to spend funds received as a  
2 part of our ongoing work with other departments to  
3 combat criminal activities. These funds are generated  
4 from three separate asset sharing agreements that FTB  
5 has entered into with the U.S. Department of Justice,  
6 California Department of Justice, and U.S. Department of  
7 Treasury. Currently FTB's share of these funds is  
8 approaching \$325,000.

9           These funds are accounted for as special funds in  
10 our financial statements and are annually reconciled  
11 with the State Controller's Office and the Department of  
12 Finance as well as U.S. Department of Justice and the  
13 U.S. Department of Treasury.

14           Approval to spend these funds will allow FTB to  
15 purchase qualified equipment or services under this  
16 program, such as training, equipment such as body armor,  
17 forensic lab equipment, or telecom equipment to name a  
18 few of the qualified items.

19           At this time, I'm happy to take any questions on  
20 this BCP.

21           CHAIRPERSON MANDEL: Okay. No questions on  
22 those.

23           And we went to BCPs because typically Finance  
24 does not participate in that item at this board meeting.

25           Why don't I -- I will entertain a motion on those

1 three since we just went through them, before we take  
2 the ones that have someone wanting -- that's 5, 6, and  
3 7.

4 MEMBER HORTON: So move.

5 CHAIRPERSON MANDEL: It's been moved. 5, 6, and  
6 7.

7 I will second.

8 And no objection. That's the Board's order.

9 Thank you.

10 If you could go back to No. 2 and then we have a  
11 public speaker. So if you could present No. 2 first.

12 MS. HARRIMAN: All right. No. 2 BCP deals with  
13 our accounts receivable manage program and addresses our  
14 request to extend 115 existing limited term positions  
15 for another two years to support our ongoing efforts to  
16 address our accounts receivable workload.

17 The cost of these resources is \$8.8 million, and  
18 staff generates approximately \$124 million annually at a  
19 cost benefit ratio of 15:1. These resources are on  
20 staff and remain a critical part of our effort to  
21 continue our ability to address our outstanding accounts  
22 receivable balances. It is important to note that we  
23 believe this workload is permanent in nature. However,  
24 with the completion of EDR project in 2015/16 and the  
25 substantial enhancements to the collection workload

1 being implemented as a result of EDR, FTB believes it  
2 appropriate to do a final evaluation at the completion  
3 of EDR to ensure resource levels are appropriate.

4 At that time, and as appropriate, FTB will put  
5 forward a final request for these positions.

6 At this time, I am happy to entertain any  
7 questions you have.

8 CHAIRPERSON MANDEL: Let's hear from Mr. Doerr  
9 first. Dave Doerr for California Taxpayers Association.

10 MR. DOERR: We believe strongly that the accounts  
11 receivable should be collected by state employees and  
12 not by private businesses, and we support the Board in  
13 hiring as many as you need so that we can get away from  
14 private contractors and use state employees to collect  
15 these accounts receivable. I don't know if you have got  
16 enough here or not, but at least this is -- seems to be  
17 a major step forward. So we hope the Board would move  
18 in that direction.

19 CHAIRPERSON MANDEL: Thank you, Dave.

20 Can you talk a little bit about the outside  
21 collectors?

22 MS. HARRIMAN: Sure. So at this point in time,  
23 FTB has contracted with one collection agency to collect  
24 in-state debts. Typically the debts that are referred  
25 to these -- or outsourced to this lender typically are

1 cases that we have found to be uncollectible through our  
2 other efforts if we applied resources. It doesn't make  
3 sense to apply our resources to them. We use our  
4 resources to return an investment to the State typically  
5 at a 4:1 and above workload.

6           Some of these cases that are referred are, in  
7 essence, a dollar for dollar cost. It costs us a dollar  
8 to get into debt. So in that situation, we typically  
9 outsource them to the one vendor that we collect with,  
10 and then they receive 15 percent of any amount that they  
11 collect and the State is reverted the remainder.

12           FTB also continues to work with these taxpayers,  
13 if the collection agency can find them, because we need  
14 to validate the debt and be able to answer any tax  
15 questions these taxpayers have. So we remain very  
16 involved with these debts that have been outsourced to  
17 the vendor.

18           CHAIRPERSON MANDEL: Dave?

19           MR. DOERR: That's precisely what we want to  
20 suggest is that use the staff to get money that's mostly  
21 likely to come in, and these people should be diffused  
22 at all which we really don't want. They are very  
23 limited and hard-to-get accounts.

24           CHAIRPERSON MANDEL: I think we're in agreement,  
25 right?

1 MS. HARRIMAN: Yes.

2 CHAIRPERSON MANDEL: Thank you.

3 Mr. Horton.

4 MEMBER HORTON: There's a couple things that I  
5 kind of want to -- it seems that we are headed in the  
6 right direction on, but I wanted to emphasize the  
7 importance of stabilizing these positions. This is not  
8 a matter that is going to dissipate or go away at any  
9 point in time; it's always going to be with us.

10 And so for the individuals that are currently  
11 employed in these limited term positions, as soon as we  
12 can make them permanent, in order to stabilize those  
13 positions, we want to do that.

14 On the contracting out component, I think it's  
15 important that we monitor that to make sure that, in  
16 fact, they are ultimately the type of collections that  
17 are required, where there is a benefit on the economic  
18 utility of it as opposed to where they can collect it,  
19 by virtue, that they are collecting from the same  
20 person, from various, different, accounts. Therefore,  
21 it's economically beneficial to them but not necessarily  
22 to the State of California.

23 But to the extent that there is an opportunity to  
24 cross-train our team members and so that they can learn  
25 these skills, these tracking skills, we want to make

1 sure that we look at that, whenever possible, and try to  
2 provide those opportunities to the team members with the  
3 Franchise Tax Board.

4 CHAIRPERSON MANDEL: Could you talk about No. 3,  
5 sustaining workloads?

6 MS. HARRIMAN: All right. BCP No. 3 deals -- is  
7 called sustaining workloads. And FTB is requesting 72  
8 positions with 3.4 million cost to sustain our ability  
9 to generate projected general fund revenue for the State  
10 of California. This request for resources has its  
11 primary genesis from a vacancy sweep at the end of  
12 2008/9 when FTB lost 290 positions across the  
13 department, both revenue generating and service level  
14 positions.

15 Over the next several years, FTB engaged in  
16 various activities to recover from this vacancies sweep  
17 but maintain our existing efforts. FTB was somewhat  
18 successful with that effort until FTB suffered a second  
19 position sweep at the end of 11/12 with the loss of 324  
20 additional positions. The second loss of positions was  
21 under budget letter 12-03 and resulted in the statewide  
22 elimination of salary savings. As a standalone vacancy  
23 sweep, this event would have been neutral for FTB.  
24 However, when combined with the prior sweep, FTB's  
25 efforts to absorb the first loss of positions are no

1 longer possible without impacts to our operations.

2 Resources requested fall in two broad categories.

3 The first request simply is to reclassify 32 existing  
4 permanent intermittent employee positions to permanent  
5 employees, and FTB will self-fund these positions.  
6 Twenty-nine of these resources will be used in our call  
7 center to respond to calls from taxpayers relating to  
8 filing enforcement notices, collection bills, and return  
9 filing questions. Resolving these questions up front  
10 when the taxpayer first calls makes it easier for the  
11 taxpayer and decreases our costs in the long run so that  
12 we don't have to deal with them later in the processes.

13 Three of these resources will be used to key data  
14 from the tax returns in our Economic and Statistical  
15 Research Bureau, responsible for providing tax data to  
16 external parties and decision makers such as the  
17 Department of Finance, Legislative Analyst's Office, and  
18 the legislature, as well as to FTB internal parties so  
19 we can conduct compliance trends. Failure to sustain  
20 these resources will hinder FTB's ability to get quality  
21 data from the tax returns consistent with the needs of  
22 users of this data.

23 In addition to these 32 positions, FTB is also  
24 seeking 40 new permanent positions with resulting  
25 funding of \$3.4 million. These positions are across the

1 Department. FTB has adopted mitigation strategies to  
2 perform our work with the lower level of resources.  
3 However, FTB is no longer able to mitigate further, and  
4 failure to provide these additional resources will  
5 result in the reduction or elimination of programs and  
6 services FTB currently conducts.

7           Some of these activities include those conducted  
8 in our processing business areas for processing tax  
9 returns and payments, procurement, project oversight,  
10 tax form development and e-file support, equal  
11 employment office activities, resolution of protests,  
12 monitoring our systems 24 by 7 to ensure they are  
13 useable by taxpayers attempting to file or pay, and  
14 enhancing our efforts to combat identity theft that you  
15 will hear about later.

16           This request for additional positions will allow  
17 FTB to continue to recover from the first vacancy sweep  
18 and ensure no compliance activities conducted today are  
19 negatively impacted. Failure to grant these resources  
20 will result in various workloads being ceased or  
21 downgraded in integrity, resulting in slower resolution  
22 times.

23           At this point I'm happy to address any questions  
24 you have.

25           CHAIRPERSON MANDEL: Sure. Let's hear from Dave

1 on this one.

2 MR. DOERR: Dave Doerr.

3 I'm going to address this one piece of this  
4 rather omnibus issue, and that is the resolution of  
5 protests. I was shocked, when I read the BCP, that the  
6 Board is moving further away from its goal of resolving  
7 protests on an average of 24 months, rather than moving  
8 forward. I was very, very unhappy to see that.

9 Certainty is an important issue, an important  
10 principle of tax policy, and when these protests linger,  
11 taxpayers must live under a cloud of uncertainty and  
12 that disrupts business plans and can disrupt family  
13 decisions. It can disrupt even a person's health.

14 So we think it's highly important that this be  
15 turned around and we start moving back towards the  
16 original goal rather than moving away from the original  
17 goal. And I'm not sure -- you have two positions  
18 budgeted for this. I'm not sure that's even enough.  
19 You may need to hire more staff if you really want to  
20 get this turned around. This is really -- this is a  
21 real sad thing to see.

22 CHAIRPERSON MANDEL: Thank you, Dave.

23 I think I used the same word when I was talking  
24 to staff, that I was shocked to see the number as well  
25 in terms of where things were with protests. And

1 perhaps the chief counsel can address this aspect of  
2 what's been going on in Legal and how they are intending  
3 to turn it around.

4 Jozel.

5 CHIEF COUNSEL BRUNETT: This is obviously a very  
6 important matter for us as well. With the loss of 20  
7 positions over the two vacancy sweeps, the increase in  
8 percentage of protests, the 28 percent that we've  
9 received to docket, the complexity, all of those  
10 factors, you know, have created a storm and we're moving  
11 away from the goal. We don't want to move away from the  
12 goal. We want to move toward the goal, which is why  
13 we've requested the additional resources.

14 And in addition, we're not waiting for the BCPs  
15 to try to tackle this program -- this problem. The  
16 legal management team has been working on our business  
17 plan, and the top priority for our business plan is, in  
18 fact, to reduce the growing protest backlog. So  
19 together with efforts, we're going to be engaging in  
20 there as well as the BCPs. We hope to, obviously, move  
21 back toward the goal.

22 CHAIRPERSON MANDEL: I think we're thinking the  
23 same thing. So I will let you say it.

24 MR. DOERR: Well, I was thinking maybe you should  
25 have a standard agenda Item for the staff to report

1 periodically about how well it's going to meet this goal  
2 so that it becomes very conscious and we can evaluate  
3 how we're doing.

4 CHAIRPERSON MANDEL: Yeah. I was going to ask.  
5 It's been quite a while since we had a report on  
6 protests and we could go back and look at those reports  
7 for an idea of what we used to get, which was I think  
8 types of protests, you know, where they were, what's  
9 holding them up, you know, if there's something that's  
10 being held pending litigation. We had a whole bunch of  
11 different things that we used to get and we haven't seen  
12 a report like that for a while.

13 And with the -- with the point being made in the  
14 BCP, I think it's of interest -- sort of generally --  
15 certainly it's of interest to us -- as to where we are  
16 with the protests, and I look forward to seeing that  
17 number come down and work being done.

18 I do understand, as with a lot of things, that  
19 there's a lot more work -- just that the workload has  
20 increased, the number of protests and that sort of  
21 thing, and trying to manage it around people, but it is  
22 one of those things that can get away from you if we're  
23 not focused on it.

24 Mr. Horton.

25 MEMBER HORTON: The protests -- as you look at

1 these, my hesitation is to say something that I actually  
2 believe you are already doing. But just for the record,  
3 if you will, I believe we have to look at not only the  
4 workload, which is -- sort of equates itself to  
5 additional staffing, but there's also systemic issues  
6 that we want to look at, procedural issues, and policy  
7 issues to see if there is a change -- or a need for a  
8 change systemically, procedurally, and so forth, in  
9 order to bring some resolutions to these issues early  
10 on.

11 I know the FTB seeks to -- has expanded its  
12 outreach to California taxpayers to begin the  
13 educational process, and I for one believe that  
14 education is our greatest enforcement tool. It's also  
15 our greatest conflict resolution tool and problem  
16 solving tool. So to the extent that we can begin to  
17 identify specific areas, where we may have challenges,  
18 be that in the tax credit, for example, research and  
19 development, are the protests, are we seeing an increase  
20 in those particular areas and can we reach out or can we  
21 make systemic changes that may actually enhance the flow  
22 of the resolution of the problem? So it's not always  
23 attributed to staffing.

24 If I may, a separate subject, but still similar  
25 is, as we begin to look at the BCPs, I want to make sure

1 that we are studying our staffing model to, whenever  
2 possible, to ensure that we're asking for positions that  
3 provide upward mobility for our team members. So we're  
4 actually looking for, instead of -- I'm an advocate of  
5 the call center and I think it's extremely valuable, but  
6 at the same time to identify where we can have higher  
7 level positions so that our team members can look  
8 forward to promotional opportunities as we make these  
9 requests and particularly in the future. So the  
10 staffing ratio, staffing models, will be important to  
11 sort of incorporate so I can -- for me, to take a look  
12 at it as we move forward.

13 CHAIRPERSON MANDEL: Thank you.

14 MS. HARRIMAN: Thank you.

15 CHAIRPERSON MANDEL: And No. 4 is the legislative  
16 BCP.

17 MS. HARRIMAN: All right. Our last BCP, No. 4,  
18 regarding recent legislation that has passed.

19 AB 93/Senate Bill 90, recently enacted, adopted  
20 new hiring credits for various businesses operating  
21 under certain guidelines. FTB is responsible to create  
22 multiple items under this legislation. One item is a  
23 reservation system for the new hiring credit which will  
24 be used for reserving during the year of hire and then  
25 accepting an acknowledgment of the ongoing credit each

1 year after the taxpayer is qualified for the qualified  
2 employee.

3 FTB is requesting three 2-year limited term  
4 resources for this workload, which was estimated to  
5 reach 10,000 reservations annually during the  
6 legislative process.

7 FTB is also required to establish a searchable  
8 online database of taxpayers claiming the credit. FTB  
9 is requesting one 2-year limited term in fiscal year  
10 14/15 to accomplish this task.

11 The last provision of this workload relates to  
12 perform validation work on the contractual agreement  
13 that GoBiz negotiates with taxpayer claiming the  
14 California Competes credit.

15 FTB is requesting four limited term positions for  
16 this workload, two of which are effective January 1st of  
17 2015, and two of which are effective July 1st of 2015,  
18 each through June 30th of 2017, based on an estimated  
19 universe of 50 audits annually. FTB continues to work  
20 with GoBiz very closely to fully understand our joint  
21 responsibilities under this workload.

22 FTB is requesting limited term positions for this  
23 workload due to the substantial unknowns regarding the  
24 actual universes of taxpayers who will claim these  
25 credits. Over the next year, FTB will evaluate the

1 universe of taxpayers and the final budget change  
2 proposal we put forward in fiscal year 2016/17 for  
3 appropriate level of resources.

4           The second legislation included in this proposal  
5 is related to AB 92, which was also enacted and  
6 established various reporting requirements for taxpayers  
7 who elect the tax deferral of gain on real estate under  
8 the provisions of Internal Revenue Code section 1031 and  
9 exchange California property for non-California  
10 property. FTB is requesting 350,000 -- 357,000 in  
11 overtime to fund one-time implementation costs  
12 associated with this bill.

13           All of these costs included in the budget change  
14 proposal are consistent with those disclosed during the  
15 legislative process and noted in the Enrolled Bill  
16 Report.

17           At this time I'm happy to take any questions.

18           CHAIRPERSON MANDEL: Okay. Dave, I think you had  
19 comments on this one as well.

20           MR. DOERR: Yeah. Right. Dave Doerr.

21           My members are worried about the reporting  
22 requirements under the like-kind exchange provisions.  
23 They don't want to see this become a really onerous and  
24 bureaucratic requirement for really not a lot of dollars  
25 involved, and so we would hope that before the

1 requirements are in stone, we would have a chance to  
2 look at them and make comments and try and work with you  
3 folks to make sure that it's not a real burden.

4 CHAIRPERSON MANDEL: I don't know why we're  
5 getting feedback.

6 MR. DOERR: Is that me?

7 CHAIRPERSON MANDEL: I don't know.

8 With respect to his comments on the like-kind  
9 exchange. Selvi, do we -- or Bruce?

10 MR. LANGSTON: Thank you. I'm Bruce Langston  
11 from Franchise Tax Board Legal Division.

12 Yes. We will -- normally when we draft a new  
13 form, we will have a draft that we will have available  
14 to share before it goes final and we hope to -- I'm not  
15 sure exactly when that's going to be ready, but we will  
16 be sure to include the interested parties in the  
17 drafting of that and the procedures around the  
18 requirement for information reporting under this -- for  
19 the 1031 exchanges.

20 CHAIRPERSON MANDEL: Okay. Thank you.

21 Any other questions on the legislative proposal?  
22 I mean, legislative BCP?

23 MEMBER HORTON: No, not really.

24 But just somewhat feel compelled to say we're  
25 shifting dollars from one place to another. As a result

1 of this legislation, the \$750,000 credit, the whole  
2 enterprise zone debate and so forth in that we're not  
3 really creating anything new as far as benefit to  
4 California taxpayers, just to a new category of  
5 taxpayers, if you will. It should be as simple as  
6 possible. And so let's do what we can to do that.

7           And particularly, that you had a whole category  
8 of individuals who had already qualified and met the  
9 requirements and so forth and so now they are changing  
10 the rules somehow, but yet, still the end results may or  
11 may not be the same. And, as well, to ensure that we  
12 sort of track this information for -- in order to report  
13 back to the legislature, to be able to address the  
14 concerns that were expressed as it went through the  
15 legislative process, both positive and negative, so we  
16 can provide them some intelligence on the benefit of AB  
17 90 -- 93 and SB 90. One or the other.

18           CHAIRPERSON MANDEL: Or both.

19           MEMBER HORTON: Or both. Yeah.

20           CHAIRPERSON MANDEL: Okay. Thank you.

21           So then at this time I will entertain a motion on  
22 BCPs 2, 3, and 4.

23           MEMBER HORTON: So move.

24           CHAIRPERSON MANDEL: Okay. It's been moved and I  
25 will second. And no objections, so that will be the

1 Board's order. Thank you.

2 MS. HARRIMAN: Very good. Thank you.

3 Finishing up this item, facility action items are  
4 next. Two of them will be presented to you for your  
5 approval as well.

6 The first item, FTB hosts and maintains a data  
7 center in accordance with parameters established by  
8 statute in the California Department of Technology. The  
9 data center is currently powered by SMUD as a dual  
10 back-up system. The dual back-up system is composed of  
11 a battery which provides one hour of life and a  
12 generator.

13 Our data center has suffered two power outages  
14 since 2009 and both times the existing back-up systems  
15 failed to perform as required. As such, FTB is  
16 requesting authorization to begin the CRUISE process in  
17 working with DGS to determine the most feasible solution  
18 to this issue. Discussion will focus on the need to  
19 acquire a second generator, estimated to cost 540,000,  
20 with 4,300 ongoing costs. Acquiring a second generator  
21 will allow FTB to continue to meet the qualifications of  
22 a Tier III data center and ensure FTB business  
23 operations are not unduly impacted by a power outage.

24 The second item, FTB would like to install badge  
25 readers on the doors to our telecom network rooms.

1 Currently, access to these rooms are controlled by a  
2 key, which is not consistent with best business  
3 practices for a sensitive area such as this. These  
4 rooms -- these rooms host the wiring for our network and  
5 telecom systems, and installing badge readers at each  
6 door will allow FTB to ensure the security of these  
7 critical rooms. Thus, FTB is seeking approval to engage  
8 DGS to begin the process of installing wiring necessary  
9 to support the badge readers.

10 At this time, approval of these two items is  
11 requested. I'm happy to answer any questions you have.

12 CHAIRPERSON MANDEL: Okay. On the generator, so  
13 that's a -- is there something wrong with the generator  
14 that's there? Are we replacing it?

15 MS. HARRIMAN: To our knowledge, the generator  
16 that's there is working. It has failed in the past --

17 CHAIRPERSON MANDEL: It just didn't feel like  
18 working the two times that we had power outages.

19 MS. HARRIMAN: Correct. Yes. So we're hopeful  
20 that it works. We've been told by DGS and the vendor  
21 that supports that generator that it is functioning, so  
22 we do believe that it is functioning.

23 CHAIRPERSON MANDEL: But since it has failed us  
24 twice, we need to get one in case it fails us, should we  
25 need it again.

1 MS. HARRIMAN: Again. Correct.

2 CHAIRPERSON MANDEL: They think it works.

3 MS. HARRIMAN: Hopefully. Yes. We do believe it  
4 works.

5 CHAIRPERSON MANDEL: I mean, the first one. They  
6 think the one that's there works, except it didn't work.

7 MS. HARRIMAN: Yes. We hope it all works.

8 MEMBER HORTON: I see a lot of heads nodding.  
9 Must be something more behind this generator.

10 MS. HARRIMAN: Nothing like a true test to verify  
11 it works.

12 MEMBER HORTON: Move adoption of staff  
13 recommendation.

14 CHAIRPERSON MANDEL: Second. And no objection,  
15 so that will be the Board's order on both items. That's  
16 how I understood the motion.

17 MEMBER HORTON: Yes.

18 CHAIRPERSON MANDEL: Thank you.

19 Okay. We're going to go -- you're done then,  
20 right? Thank you, Jeanne.

21 We're going to go back to the beginning of the  
22 agenda, which is -- Agenda Item 1 is approval of  
23 minutes. We have the minutes of the June 25th, 2013,  
24 Board meeting for approval.

25 MEMBER HORTON: Move approval of minutes as

1 previously stated.

2 CHAIRPERSON MANDEL: Minutes are moved, and I  
3 will second. And no objections so the minutes are  
4 approved. Thank you. You were brilliant in presenting  
5 them, Bruce.

6 We're now on Item 2. Superior accomplishments  
7 2013. We have Robert Moreno from our HR Bureau, which  
8 he's got a PowerPoint, right? So we're going to move  
9 over to the side.

10 MR. MORENO: Well, good afternoon. My name is  
11 Robert Moreno, and I'm the manager responsible for  
12 administering the department's awards programs.

13 At our last board meeting, Michelle Fallon  
14 provided you an overview of the Franchise Tax Board's  
15 accomplishments as a department. Today I would like to  
16 take that a step further and focus on some specific  
17 accomplishments of FTB's most valuable asset, our  
18 employees.

19 Now, FTB has been recognizing staff for their  
20 superior performance through the Superior Accomplishment  
21 Award Program for the past 27 years, and as you are  
22 aware, this is a statewide program administered by Cal  
23 HR that recognizes individuals and teams for their  
24 superior performance and contribution to the efficiency  
25 and cost savings of state government.

1           You are probably pretty familiar with this slide.  
2 It's a layout of the department's strategic goals. And  
3 the Superior Accomplishment Award Program supports one  
4 of the department's goals, strong organization. This  
5 year we recognize 29 individuals and 14 teams for a  
6 total of 156 recipients. We hold an awards ceremony  
7 every July to honor our recipients, and this is a very  
8 special ceremony, not only for our recipients, but for  
9 the department.

10           In a few moments I'm going to show you a slide  
11 show of this year's recipients, but first I would like  
12 to share what the atmosphere is like on the day of the  
13 ceremony, kind of set the stage, so to speak. This  
14 auditorium that we're in, filled with people, filled  
15 with excitement, standing room only. Some recipients  
16 dress to the nines. Others bring their family members;  
17 their bring their children, their spouses, their  
18 parents, even their grandparents. And during the  
19 ceremony, something pretty cool, we sit the family  
20 members in the first rows and you can see this glow of  
21 proudness, I would call it, waiting for their family  
22 members' names to be announced.

23           And to make this event even more special, Selvi  
24 makes it a point to get here early, talk with the  
25 recipients, and, more importantly, meet the family

1 members. And to make it even more, more special, she  
2 introduces the family members to the audience, so it  
3 brings them into the fold of the ceremony and what we  
4 call our FTB family.

5           Also, coworkers come out in force, supporting and  
6 cheering as their peers take the stage to receive the  
7 award, and we set up a video conference team with our  
8 field offices so they can join in the ceremony. Now,  
9 when we have recipients in the field office, we have a  
10 ceremony in our field offices, and then we reverse it  
11 and then we video conference them and stream it live  
12 here so we are part of their ceremony. Our goal? To  
13 make this an exciting and proud moment for recipients  
14 regardless of their locations.

15           Now, being a recipient myself over 12 years ago,  
16 I can share with you that being recognized for my  
17 accomplishment doesn't go away after this ceremony is  
18 over, so I wanted to share that with you. Exactly what  
19 it said.

20           Now, I would like to read all the nominations  
21 individually and share all their wonderful  
22 accomplishments, but that would probably take this whole  
23 board meeting and then some. However, I would like to  
24 share what Selvi says in her speech to all recipients.  
25 She says, "You are the cream of the cream of the crop,"

1 and I believe that sums up exactly how special, not only  
2 these recipients, but their accomplishments, are to this  
3 department.

4           We have over 6,300 employees that are eligible  
5 for this award, yet only 156 were awarded. That's less  
6 than 3 percent of the total workforce here. So  
7 recipients out there, definitely something to be proud  
8 of.

9           So now that you have an idea what the atmosphere  
10 is like on the day of the ceremony, let's meet our 2013  
11 Superior Accomplishment Award recipients. I prepared a  
12 slide show with photos of the recipients and a short  
13 description of their accomplishment. All the  
14 accomplishments support one or more of our strategic  
15 goals. So I arranged the accomplishments by the goal  
16 they supported the most. So please, sit back, relax,  
17 and enjoy the slide show of this year's recipients.

18           (Slide show presentation)

19           MR. MORENO: Well, I hope you enjoyed the slide  
20 show. And I have just to say that having the Board  
21 entertain this presentation in a board meeting just  
22 makes these awards that more special. So thank you.

23           Okay. So the last slide is a picture of the  
24 hallway where we display the photos of the recipients  
25 and they remain there until the next year's recipients

1 are awarded. So anytime, Board Members, you are in  
2 Franchise Tax Board, visiting, please stop on by the  
3 first floor of the Sacramento building in front of the  
4 HR department and you can visit them to. But today you  
5 don't have to walk that far. We have several of the  
6 2013 recipients sitting proudly in the audience today.

7 CHAIRPERSON MANDEL: Well, that's fantastic. We  
8 have a fantastic staff. Let us see you, 2013. Stand  
9 up. Be recognized. (Applause) Aren't they fabulous?  
10 And I'm sure everybody is so proud of you.

11 Mr. Horton.

12 For the first time they didn't give us those Las  
13 Vegas microphones while we're at this table. And it's  
14 the first time we really need them to talk to everybody  
15 out in the audience.

16 Mr. Horton.

17 MEMBER HORTON: Thank you, Madam Chair. To all  
18 of you who have won the award, I wanted to just  
19 personally thank you so very much. You are the shining  
20 examples that exist out there. I think Martin Luther  
21 King once said, Our stars shine the brightest during our  
22 darkest hours. And so during the challenging times is  
23 when these individuals have stepped up and been  
24 exceptional. And so oftentimes when we're asked why are  
25 there so many exceptional individuals at the Franchise

1 Tax Board, and my response is, it is what it is. We are  
2 who we are.

3 So on behalf of all of the Board, as well as all  
4 of the individuals that work here for the Board, you  
5 represent us all and you are the shoulders on which we  
6 are able to stand on as board members, because, in many  
7 ways, we are the ambassadors for the Board, and every  
8 meeting we go to, believe me, someone has something to  
9 say, and I'm extremely proud that 99 percent of the time  
10 there's something very positive about each and every one  
11 of you. So thank you so very much for all the work that  
12 you have done and you continue to do.

13 MR. MORENO: Thank you.

14 MEMBER HORTON: And again, give yourselves  
15 another round of applause. (Applause)

16 And Robert, 12 years? You haven't won this award  
17 in 12 years? (Laughter)

18 MR. MORENO: You caught that, huh?

19 MEMBER HORTON: You are in charge. Just kidding.

20 Robert, I might say that I did like your comment  
21 about dress to the nine. It dates you a little bit, my  
22 friend.

23 MR. MORENO: Been here awhile.

24 CHAIRPERSON MANDEL: Thank you.

25 Okay. We're now on Item 3, which we're going to

1 stay here because it's another Power Point, which is  
2 combating identify theft, and Jennifer Roussel, manager  
3 of our fraud and discovery section of the filing  
4 division. Jennifer.

5 MS. ROUSSEL: Thank you, Madam Chair.

6 Yes, my name is Jennifer Roussel and I am the  
7 manager of the Fraud and Discovery section, and I get  
8 the privilege today to provide an update on what  
9 Franchise Tax Board is doing to combat the ever growing  
10 issue of identity theft, or, as I will refer to it  
11 today, ID theft.

12 Specifically, I will provide an overview and a  
13 description of what with ID theft looks like here at FTB  
14 as well as what the trends are at both the national and  
15 state level. And I will also provide detail on what  
16 we're doing to combat the issue.

17 So what is ID theft? For millions of Americans,  
18 it's a very frightening, frustrating, and sometimes  
19 financially expensive experience when someone has stolen  
20 their personal information, specifically their name and  
21 Social Security number most times, and have committed  
22 some type of fraud or other crimes.

23 For Franchise Tax Board, we see two main types of  
24 ID theft here, that impact FTB's taxpayers as well as  
25 the accounts that we work with.

1           The first one is refund fraud. This is one  
2 someone has used the name and Social Security number of  
3 an individual to file a fraudulent refund return with  
4 us. In this situation, the taxpayer normally does not  
5 know that they have been a victim of ID theft until they  
6 attempt to e-file their return, and when they do that,  
7 our system rejects the return because we've already  
8 received a return with that Social Security number  
9 already. And as a result, they have to contact us and  
10 they actually do need to file their return on paper,  
11 provide us with some additional documentation, and the  
12 refund is delayed but they do normally receive it.

13           The other type of ID theft that we deal with is  
14 employment related. This is the situation where the  
15 individual that's stolen the ID has used it to gain  
16 employment under false pretenses, so they are working  
17 using that name and Social Security number. And as a  
18 result, the employer reports that information to both  
19 the EDD and the Franchise Tax Board or the IRS. And  
20 when they report that information to us, we use our  
21 income matching services and find that that income has  
22 not been reported to us, and as a result, the taxpayer  
23 is sent a notice with an increased liability or a  
24 request for a return, and that notice is, for the  
25 taxpayer, their first indication that they may be a

1 victim of ID theft.

2           So how big is this issue? So the next three  
3 slides that we have are going to go through what we've  
4 seen in the growth of ID theft at both the national  
5 level at IRS as well as the FTB.

6           We turned to the nation's consumer protection  
7 agency, the Federal Trade Commission, to find out what  
8 kind of complaints they were receiving. They maintain a  
9 database of all complaints registered by taxpayers and  
10 individuals related to ID theft and fraud. And  
11 specifically as it relates to tax and wages, they have  
12 seen an increase from 2010 to 2012 from about 50,000 to  
13 160,000 complaints. So you can see it, from 2005 to  
14 2010, it remained pretty steady of a growth, and then it  
15 spiked up in the last two years.

16           IRS has also seen that same amount of growth. In  
17 2009 they had 400,000 incidents of confirmed ID theft;  
18 2011, that jumped up to 1.1 million; and in 2013, as of  
19 the end of June, they have reported 1.9 million of  
20 confirmed incidents of ID theft.

21           As Franchise Tax Board, we've also seen that  
22 growth. We, in 2009/10, recorded around 6,000  
23 incidents. In 2012/13, that's grown to 18,000, so three  
24 times the amount of growth.

25           Our largest area is in the area of refund fraud.

1           So it's growing, and what are we going to do  
2 about it? So our goals with our ID program, of course,  
3 are to protect the taxpayers, minimize the impacts on  
4 victims, respond timely and accurately to the victims of  
5 ID theft, and protect California's resources. So to  
6 protect the taxpayers and minimize the impacts to the  
7 victims, we do that in a variety of different ways, but  
8 the most important way that we do this is we flag their  
9 account when we've confirmed that they are a victim of  
10 ID theft. That flag ensures that they are not going to  
11 be victimized again with the FTB.

12           So the flag prevents any refunds from going out  
13 without somebody looking at it first to ensure that it  
14 should go to the taxpayer and it isn't fraudulent. It  
15 also stops any new notices from being generated to make  
16 sure that that liability actually belongs to the  
17 taxpayer.

18           We really strive to provide timely and accurate  
19 service. We provide a dedicated phone number for the  
20 victims to contact us to report the issue as well as  
21 check on the status of their accounts. We also have a  
22 public web page that's dedicated to ID theft. On this  
23 web page, they can find detailed information on what  
24 they need to provide to us to report the crime as well  
25 as resources for other agencies that they can contact to

1 help them during this time.

2           And to protect California's resources and really  
3 to protect California's taxpayers, our fraud and  
4 discovery section is responsible for researching and  
5 implementing new methodologies to identify refund fraud  
6 and ID theft up front before the refund is issued.

7           The staff is also responsible for reviewing  
8 hundreds of thousands of suspicious refunds each year to  
9 ensure that that fraud does not happen. We know our  
10 system is working pretty good. As a result of the  
11 Enterprise Data to Revenue project, we had two experts  
12 come in and evaluate how effective we've been. And  
13 although we do have improvement to make, we are doing a  
14 very good job at stopping ID theft and refund fraud.

15           So sometimes it comes down to the money. In  
16 2009/2010, our ID theft program identified 1.5 million  
17 in refund fraud. In 2012/2013, that grew to nearly  
18 19 million. We stop nearly \$2 of every \$3 of fraud  
19 that's attempted. That does mean that there's some  
20 amount that we don't stop before the refund is issued.  
21 That amount with ID theft is very difficult to collect  
22 because we don't know who the culprit was.

23           So our goal is to reduce the gap between what we  
24 stop before the refund is issued, which is the blue on  
25 the graph, and what we find after the refund is issued,

1 which is the green on the graph.

2           So how are we going to do that? So we have  
3 expanded our partnership with the IRS. This expanded  
4 partnership allows for us to share detailed information  
5 about our best practices and our procedures as well as  
6 to partner with them to fight ID theft, specifically at  
7 the individual level and at large schemes.

8           We also are going to leverage the Enterprise Data  
9 to Revenue project and the new detection capabilities  
10 that it offers to us, including a new identity theft  
11 model score that's going to be given to each return that  
12 comes into the department. That score will be  
13 implemented in 2015 for the 2014 tax year.

14           And because we know this is going to continue to  
15 grow and we need to get ahead of it, we have two  
16 Enterprise initiatives in place. One is focused on  
17 identifying new ways to stop ID theft up front and  
18 researching those ideas. There's about 20 different  
19 ideas that we're researching.

20           The other is an Enterprise study team that's  
21 focused on looking at our current procedures, policies,  
22 and practices as it relates to ID theft to make sure  
23 that we are providing consistent, timely, and accurate  
24 service to all the victims of ID theft and to protect  
25 the California taxpayers.

1           So with that said, we are very happy about and  
2 very proud of what we've been doing to stop ID theft and  
3 combat ID theft, and we thank the Board for your  
4 continued support and interest in this particular  
5 subject matter.

6           And that concludes my presentation.

7           CHAIRPERSON MANDEL: Okay. Thank you, Jennifer.

8           I think -- Dave, did you want to speak on this  
9 item?

10          MR. DOERR: Dave Doerr again. We applaud what  
11 you are doing to combat ID theft. This is extremely  
12 important, and as your chart shows, it's growing.

13          Just one additional thing. We would like to  
14 emphasize very strongly, you need to zealously guard the  
15 confidentiality of the tax returns that you have. And  
16 on one point, we would like to stress that we do not  
17 favor allowing access to those returns to private  
18 businesses, and we hope you will not sponsor or support  
19 legislation to do that.

20          And I worked for the legislature for 28 years.  
21 The legislature has access to your tax returns and they  
22 need it for certain types of activities. So I know what  
23 you can do with those returns without breaching  
24 confidentiality, and you would be surprised as what  
25 kinds of things can be done. So I think it's very, very

1 dangerous to allow those returns to be accessed by any  
2 private business, no matter who they are working for.  
3 And we hope that we won't see anything in the future  
4 like what we saw this year, where we had to work very  
5 hard to get that provision out of a bill and we got it  
6 out Friday.

7           But I think that's one additional element of  
8 identify theft that you have to be very careful.

9           MS. ROUSSEL: We definitely agree and take  
10 taxpayers' privacy and their security and the data that  
11 we're entrusted with to -- just the utmost importance to  
12 it.

13           CHAIRPERSON MANDEL: Thank you. Thank you,  
14 Jennifer. Thank you for your presentation.

15           We'll go back to our main table for the last  
16 couple of items.

17           Okay. We're on Item 6, Executive Officer's time.  
18 Selvi.

19           EXECUTIVE OFFICER STANISLAUS: Thank you so much,  
20 Madam Chair.

21           I do have two quick updates for you. The first  
22 one is what we call a Court-Ordered Debt program. So  
23 while this year many staff are recognized for their  
24 Superior Accomplishment Awards for successful projects,  
25 our other successful project is our COD project, or

1 Court-Ordered Debt Program. This program began in 1994  
2 as a pilot program. In the first ten years, the program  
3 collected 142 million on behalf of 30 courts and  
4 counties. In 2004, the legislature made this program  
5 permanent.

6 So I'm happy to report that just last year, we  
7 reached a milestone by collecting a hundred million just  
8 last year on this project.

9 So up to date we have collected 789 million and  
10 we have 75 active clients. So of note is, we collected  
11 \$5 million towards Victims Compensation and Government  
12 Claims Board, and these monies went to aid victims of  
13 violent crimes through the California Victims  
14 Compensation Program. So very happy with the project.

15 And moving on to another sad note, today is --  
16 was going to be Board Member Ana Matosantos's last FTB  
17 board meeting. She was --

18 CHAIRPERSON MANDEL: Here. I will hold it.

19 EXECUTIVE OFFICER STANISLAUS: Oh, you'll hold  
20 it.

21 So she was very desirous of being here.  
22 Unfortunately she got held up at the governor's office.  
23 Board Member Ana Matosantos has helped us deal through  
24 some very rough water at FTB, from furloughs to home  
25 buyer credit to conformity, to the calmer waters of EDR,

1 FIRM, and many other items, so numerous I can't mention  
2 it to today.

3 She always wanted staff to excel and happily  
4 presented resolutions recognizing FTB employees on their  
5 retirements or when they left state government.

6 At Member Matosantos's request, we don't have a  
7 resolution for her, but if it did, it would have  
8 concluded like this:

9 Therefore now, let it be resolved, this  
10 fourth day of September 2013, by the employees of the  
11 Franchise Tax Board, that we recognize and thank Board  
12 Member Matosantos for her guidance, mentoring, faithful  
13 stewardship, and personal dedication to the people of  
14 the state of California and Franchise Tax Board, and,  
15 most importantly, for her friendship. Member  
16 Matosantos, you will be greatly missed at FTB. So thank  
17 you for your services.

18 CHAIRPERSON MANDEL: Thank you.

19 We're now on board members' time. Anything on  
20 board member time?

21 No. Okay.

22 At this time the Board is -- oh, I was too fast.

23 MEMBER HORTON: Thank you, Madam Chair.

24 I just wanted to echo the sentiments of the  
25 organization towards Ana. Even though she may not have

1 been present and we had Pedro here and so forth, she was  
2 definitely an advocate for the Franchise Tax Board and  
3 the governor's office when it came to budget proposals,  
4 when it came to promotional opportunities. And then  
5 during the tough times, she was there advocating, and  
6 she saw the value of the organization, but, more  
7 importantly, she saw the value of the individuals who  
8 actually represent the organization.

9           So I too add my acknowledgment of her fine work  
10 as the person in charge of budget for the State of  
11 California.

12           CHAIRPERSON MANDEL: She's been excellent.

13           Okay. At this time the Board is going in to  
14 closed session to discuss pending litigation.

15                   (Board recessed into closed session  
16                   from 2:59 p.m. to 3:05 p.m.)

17           CHAIRPERSON MANDEL: The Board met in closed  
18 session and discussed pending litigation. We are  
19 adjourned.

20                   (Proceedings adjourned at  
21                   3:05 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 18th day of September, 2013.

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KATHRYN S. SWANK, CSR  
Certified Shorthand Reporter  
License No. 13061

