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BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION  
450 N STREET  
SACRAMENTO, CALIFORNIA  
STATE BOARD OF EQUALIZATION

NOVEMBER 17TH, 2022  
CALIFORNIA STATE BOARD OF EQUALIZATION  
BOARD MEETING

REPORTED BY: Jillian M. Sumner  
CSR NO. 13619

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APPEARANCES

For the Board of  
Equalization:

Honorable Malia M. Cohen  
Chair

Honorable Mike Schaefer  
Vice Chair

Honorable Ted Gaines  
First District

Honorable Antonio Vazquez  
Third District

Betty T. Yee  
State Controller

Anthony Epolite  
Appearing for Betty T.  
Yee, State Controller  
(per Government Code  
Section 7.9)

For the Board of  
Equalization Staff:

Yvette Stowers  
Executive Director

Henry Nanjo  
Chief Counsel  
Legal Department

Julia Himovitz  
Tax Counsel  
Legal Department

Richard Moon  
Tax Counsel  
Legal Department

Lisa Renati  
Chief Deputy Director

Margie Wing  
Senior Specialist  
Taxpayers' Rights Advocate Office

David Yeung  
Deputy Director  
Property Tax Department

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APPEARANCES CONTINUED

Jack McCool  
Chief  
State-Assessed Properties Division

Sonia Yim  
Appeals Attorney

Dustin Weatherby  
Chief  
Legislative, Research and Statistics  
Division

Mary Cichetti  
Clerk  
Board Proceedings Division

Scheduled Speakers: Jeff Prang  
LA County Assessor

Brian Donnelly  
Director of Operations  
LA County

Joaquin Torres  
Assessor-Recorder  
San Francisco County

Sean Rawson  
Waterford Property Company

Ben Barker  
Financial Advisor  
California Municipal Finance  
Authority

Public Speakers: Jennifer Ott  
Assistant City Manager  
Alameda County

Shaun Bradley  
HomeFed Corporation

Guy Penini  
BLDG Partners

Matt Avital  
Principal/Founder  
Ascenda Capital

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STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO

NOVEMBER 17, 2022

---oOo---

MS. COHEN: Good morning, ladies and gentlemen. Good morning to you.

I'd like to call this meeting to order. It's 10:00 O'clock, Thursday, November 17th.

This is the regularly-scheduled Board Meeting for the California Board of Equalization.

My name is Malia Cohen, Chairwoman of this body.

And to my left is Vice Chair Mike Schaefer.

Ms. Cichetti, good morning to you.

Could you please call the Board Meeting -- please call the roll.

Thank you.

MS. CICHETTI: Chair Cohen.

MS. COHEN: Present.

MS. CICHETTI: Vice Chair Schaefer.

MR. SCHAEFER: Present.

MS. CICHETTI: Member Gaines is appearing remotely.

MS. COHEN: He will be joining us in a few minutes in person.

1 MS. CICHETTI: Okay. I apologize.

2 Member Vazquez.

3 MR. VAZQUEZ: Present.

4 MS. CICHETTI: Deputy Controller Epolite.

5 MR. EPOLITE: Present.

6 MS. COHEN: All right. Looks like we have a  
7 full -- a quorum.

8 And let's go ahead and get started.

9 We will start with the Pledge of Allegiance.

10 Please join me in rising, placing your right  
11 hand over your heart, and pledge allegiance to the flag.

12 (Whereupon the Pledge of Allegiance was  
13 recited.)

14 MS. COHEN: All right. Fantastic.

15 I will open with just some opening remarks.

16 I will pivot to my Vice Chair, Mr. Schaefer,  
17 who has a memory that he'd like to share with all of us.

18 Mr. Schaefer.

19 MR. SCHAEFER: Yes.

20 I wanted to announce that we lost a gentleman  
21 named Dion Rich this last week or two.

22 Dion was known as the world's greatest gate  
23 crasher. He went to over 40 Super Bowls all over the  
24 United States and crashed them.

25 He said after 9/11 it's a little tougher to

1 crash it. He'd buy a ticket and try to crash it anyhow.

2 The NFL had a "Wanted" poster out on him,  
3 because he was interfering with their security.

4 He ended up being hired by FBI or other  
5 security to give lectures on how you catch a bad guy  
6 like him.

7 Reminds me of the movie "Catch Me if You Can."  
8 He wrote two books on it, "The Life of Dion Rich," "The  
9 World's Famous Gate Crasher."

10 He was very much a Republican. But he voted  
11 for me, because I was his buddy. He's been up to my  
12 inauguration a few years ago, and met everybody, and sat  
13 in my seat in my office.

14 He said, "Mike, I'll vote for you, because  
15 you're -- even though you're a Democrat, because you're  
16 my friend. And I vote for Joe Biden."

17 And I said, "Well, why did you vote for  
18 Joe Biden?"

19 "Well, he has the same birthday I do."

20 So he was a very lovable guy, and we all miss  
21 him. And he was a very important part of my work in  
22 politics.

23 And I just wanted to mention out there,  
24 Dion Rich of San Diego, California, aged 93 on November  
25 20th. So he almost made it.



1 Thank you.

2 MS. COHEN: All right. Thank you.

3 Mr. Vazquez.

4 MR. VAZQUEZ: Thank you, Madam Chair.

5 I'd just like to open this meeting in  
6 recognition of two important observances happening in  
7 November.

8 First, I'd like to highlight this week's  
9 celebration of American Education Week, which honors the  
10 educators who work in our nation's public schools, from  
11 teachers, school psychologists, speech-language  
12 pathologist, to the custodians and administrative staff.  
13 This year's theme is "Together for Safe, Just and  
14 Equitable Schools."

15 As a former teacher, I salute all the members  
16 of our schools and communities who play such an  
17 important role in providing excellence in public  
18 education to our nation's children.

19 Also, I would want to recognize the National  
20 Native American Heritage Month observed every November  
21 in the United States, in which we celebrate and pay  
22 tribute to the indigenous people, past, present, their  
23 rich and diverse cultures, traditions and histories, and  
24 their significant contributions to the establishment and  
25 growth of the United States.

1           As teachers, as scholars, as scientists, as  
2 doctors, as writers, as artists, as business leaders and  
3 elected officials, heroes in uniform, and so much more,  
4 they made immeasurable contributions to our nation.

5           And just the last thing, I just got wind of it  
6 actually this morning. Some of you might have heard  
7 this tragic accident that took place actually in my  
8 district in Whittier.

9           And several of these young cadets and sheriffs  
10 were going through a running exercise, and apparently  
11 this young man lost control of his vehicle and plowed  
12 into them while they were running.

13           And I know there's at least five that are very  
14 critical. So my heart goes out to their families, and  
15 prayers. And hopefully things turn out for the best as  
16 much as possible.

17           But that did take place, I believe it was  
18 yesterday morning.

19           MS. COHEN: Very sad and very tragic.

20           Are there any other announcements?

21           Okay. Thank you.

22           Ms. Cichetti, please announce our first order  
23 of business.

24           MS. CICHETTI: Good morning.

25           Our first order of business is an announcement

1 regarding public safety and Board Room procedure.

2 Good morning, Madam Chair and Members. The  
3 Board information announcement is as follows:

4 First, I would like to remind the audience to  
5 silence your cell phones and any other wireless devices.

6 The current COVID-19 guidelines for the Board  
7 of Equalization strongly encourage, but no longer  
8 mandatory, that all BOE employees must wear a mask while  
9 inside a BOE facility or while attending any BOE event.

10 If needed, supplies of masks and hand  
11 sanitizer are available, and can be found in the back of  
12 the auditorium.

13 Public comment is taken on each agenda item.  
14 The public will be invited to comment during the matters  
15 before the Board.

16 If there are any members of the public wishing  
17 to speak before the Board on any agenda item in person,  
18 we ask that you complete and submit to the Sergeant at  
19 Arms a "Public Comment Appearance Sheet" located at the  
20 entrance of the auditorium.

21 If you wish to speak before the Board by  
22 telephone, please dial the phone number and access code  
23 provided on our Public Agenda Notice, and follow the  
24 instructions of the AT&T moderator.

25 If you intend to make a public comment today

1 using the AT&T moderator, we recommend dialling into the  
2 meeting on the teleconference line prior to the  
3 beginning of your agenda item.

4 We recommend this, as the audio broadcast on  
5 our website experiences a one- to- three- minute delay  
6 between the live stream and the live event.

7 When giving a public comment, please limit  
8 your remarks to three minutes.

9 The order that the Board identifies public  
10 comments at the conclusion of an agenda item is as  
11 follows:

12 First, we'll identify any public comment  
13 requests that we have received in the auditorium, then  
14 we will identify any public comments received with the  
15 AT&T moderator.

16 And, lastly, we will read into the record any  
17 public comments received in writing in advance of  
18 today's meeting.

19 This concludes the informational announcement.

20 Thank you.

21 MS. COHEN: Thank you very much.

22 Let's call the next item.

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ITEM C

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3 MS. CICHETTI: Our first order of business  
4 will be the Item C, Public Hearing; C1, Property Tax  
5 Rule 462.520: Public hearing and certification of  
6 emergency amendments and adoption of additional  
7 amendments to Property Tax Rule 462.520, Exclusion from  
8 Change in Ownership - Intergenerational Transfers.

9 This item will be presented by Mr. Nanjo.

10 MR. MOON: Good morning, Members of the Board.

11 I'm not Mr. Nanjo. I'm Richard Moon. And  
12 I'll be making the presentation today.

13 MR. NANJO: I was going -- I was going to  
14 actually introduce Richard Moon, our Tax Attorney V --  
15 or Attorney V is going to be making this presentation.  
16 And both of us are available for questions.

17 Go ahead, Richard.

18 MR. MOON: Good morning again.

19 As you know, since the passage of Prop. 19,  
20 staff has been working to provide guidance to interested  
21 parties and the public. And as part of that guidance,  
22 we have been promulgating regulations.

23 The regulations before you in this part of the  
24 agenda are for the intergenerational transfer exclusion,  
25 and these rules were approved by the Board and published

1 on September 30, 2022.

2 Public comments have or will be posted to the  
3 project page, but no amendments were made as a result of  
4 any of the public comments received.

5 Therefore, we request your adoption of these  
6 rules as they are published in your materials, so that  
7 they can be made official, and the emergency amendments  
8 can be made permanent.

9 Thank you. And I'm happy to answer any  
10 questions you might have.

11 MS. COHEN: No questions at this time.

12 Let me see. Colleagues?

13 No, we don't have any, Mr. Moon.

14 Thank you.

15 MS. CICHETTI: Let's see if we have any public  
16 comments.

17 AT&T moderator, please let us know if there is  
18 anyone on the line who would like to make a public  
19 comment regarding this matter.

20 AT&T MODERATOR: Ladies and gentlemen, to make  
21 a public comment, please press one, zero on your phone's  
22 keypad, and an operator will gather your name and place  
23 you in queue.

24 Once again, for comment, please press one,  
25 zero.

1           One moment, Madam Chair. We do have somebody  
2 queuing up.

3           And our comment is coming from Donisha Walton.  
4 Please go ahead.

5           (Whereupon Mr. Gaines was present.)

6           MS. WALTON: Hi. Yes.

7           I'm calling because -- I don't know if you  
8 guys heard stories of what's going on with the Child  
9 Protective Services. But a lot of the social workers  
10 are abusing their power and having people working with  
11 them.

12           You know, I'm going through a case right now  
13 where they forced my kids to lie to my husband about  
14 sexual accusations --

15           MR. NANJO: Excuse me, caller. Excuse me,  
16 caller.

17           This is a public hearing on a regulation. If  
18 you have public comments regarding the regulation,  
19 that would be appropriate.

20           If you have a general public comment on  
21 matters not on the agenda, that's going to be called  
22 later on in the agenda.

23           MS. WALTON: I'm sorry about that. Well,  
24 yes, I have a lot to say about that.

25           MR. NANJO: Okay. Then please listen for the

1 "N" as in "Nancy" item. That's when it would be  
2 appropriate for you to make your public comments.

3 MS. WALTON: Okay. Thank you, sir.

4 MR. NANJO: Thank you, sir -- ma'am.

5 AT&T MODERATOR: We have no additional callers  
6 in queue for comment.

7 MS. COHEN: Got it. Thank you.

8 Just a minute.

9 Mr. Vazquez has something he'd like to say.

10 MR. VAZQUEZ: If there's no other comments, I  
11 was going to move that we adopt Rule 462.520, Exclusion  
12 from the Change in Ownership - Intergenerational  
13 Transfer, as presented and heard today.

14 MS. COHEN: Perfect. I'll second that motion.

15 All right. Let's call the roll.

16 MS. CICHETTI: I'd like to first, if we could  
17 close the public hearing first, and then we could move  
18 onto the motion, and then we could continue.

19 We're going to go out to the AT&T operator for  
20 the motion at this time.

21 AT&T operator, can you let me know if there's  
22 anyone on the line who'd like to make a public comment  
23 at this time?

24 AT&T MODERATOR: And, once again, to make a  
25 comment on the motion, please press one, then zero, and



1 an operator will gather your name, and place you in  
2 queue. One, zero, please.

3 We have no callers queueing up for comment.

4 MS. CICHETTI: Thank you.

5 Member Vazquez has made a motion to adopt the  
6 staff recommendation for the additional amendments to  
7 Property Tax Rule 462.520, with Member Cohen seconding.

8 I'll take the roll now.

9 Chair Cohen.

10 MS. COHEN: Aye.

11 MS. CICHETTI: Vice Chair Schaefer.

12 MR. SCHAEFER: Aye.

13 MS. CICHETTI: Member Gaines.

14 MR. GAINES: Aye.

15 MS. CICHETTI: Member Vazquez.

16 MR. VAZQUEZ: Aye.

17 MS. CICHETTI: Deputy Controller Epolite.

18 MR. EPOLITE: Aye.

19 MS. COHEN: All right. This motion passes  
20 unanimously.

21 Thank you very much.

22 Let's call the next item.

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**ITEM C2**

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MS. CICHETTI: The next item on our agenda is Item C, Public Hearing; C2, Property Tax Rule 462.540: Public hearing and certification of emergency amendments and adoption of additional amendments to Property Tax Rule 462.540, Change in Ownership - Base Year Value Transfers.

This item is presented by Mr. Nanjo and Mr. Moon.

MR. NANJO: And, again, I'm just turning it over to Mr. Moon.

Mr. Moon, take it away.

MR. MOON: Good morning, Madam Chair and Members of the Board.

Richard Moon with the Legal Department.

Again, as you know, staff has been working on rules and guidance for Proposition 19. The rules before you in this part of the agenda are for the base year value transfers.

These rules were approved by the Board and published on September 30th of this year.

Public comments have or will be posted to the project web page, and no amendments to the rules were made based on any public comments for this rule.

1           Therefore, staff recommends and requests your  
2 adoption of these rules as they're presented in the  
3 material. And your adoption of these rules will make  
4 the emergency amendments permanent.

5           Thank you. And I'm happy to answer any  
6 questions you may have.

7           MS. COHEN: Thank you. I have no questions.  
8 My colleagues don't have any questions.

9           Let's go ahead and move to public comment.

10          MS. CICHETTI: AT&T operator, please let us  
11 know if there's anyone on the line who would like to  
12 make a public comment regarding this matter.

13          AT&T MODERATOR: Once again, for comment on  
14 this matter, please press one, zero at this time.

15          And we have no callers queueing up for  
16 comment.

17          MR. NANJO: And just to clarify, that was the  
18 public hearing on this matter.

19          Thank you.

20          MS. COHEN: Thank you.

21          Mr. Vazquez.

22          MR. VAZQUEZ: Yes.

23          Thank you, Mr. Moon.

24          And, Members, I move that we adopt Rule  
25 462.540, Change in Ownership, Base Year Value Transfer,

1 as presented and heard today.

2 MS. COHEN: All right. I'll second that  
3 motion.

4 Let's call the roll.

5 MS. CICHETTI: I'd like to, just at this time,  
6 we will close the public hearing on this item. And now  
7 that we have a motion, I'll go out to the AT&T moderator  
8 to see if we have anyone on the line who would like to  
9 make a comment.

10 AT&T operator, please let us know if there's  
11 anyone on the line who'd like to make a comment  
12 regarding the motion.

13 AT&T MODERATOR: For comments, please press  
14 one, zero at this time. An operator will gather your  
15 name and place you in queue. One, zero, please.

16 No callers queueing up for comment.

17 MS. CICHETTI: Member Vazquez has made a  
18 motion to adopt staff recommendation for Property Tax  
19 Rule 462.540, with Member Cohen seconding.

20 The roll.

21 Chair Cohen.

22 MS. COHEN: Aye.

23 MS. CICHETTI: Vice Chair Schaefer.

24 MR. SCHAEFER: Aye.

25 MS. CICHETTI: Member Gaines.

1 MR. GAINES: Aye.

2 MS. CICHETTI: Member Vazquez.

3 MR. VAZQUEZ: Aye.

4 MS. CICHETTI: Deputy Controller Epolite.

5 MR. EPOLITE: Aye.

6 MS. COHEN: All right. This motion passes  
7 unanimately.

8 Let's call the next item.

9

10 **ITEM 11a**

11

12 MS. CICHETTI: The next item on our agenda is  
13 I, Other Chief Counsel Matters; 11a, Board Governance,  
14 Suggested Revisions to Governance Policy: Discussion and  
15 action on suggested revisions to the Board Governance  
16 policy as of January 15th, 2021.

17 This matter will be presented by Mr. Nanjo.

18 MR. NANJO: Good morning, Chair Cohen, Vice  
19 Chair Schaefer, Honorable Members of the Board.

20 Henry Nanjo, Chief Counsel again.

21 As you may remember, at the last meeting there  
22 was some discussion among the Board Members that some  
23 changes or edits to the Board Governance policy would be  
24 desired.

25 So, consequently, I have collected those

1 suggestions received up until the date of, I believe,  
2 Monday, and then I sent them out to the Board Members.

3 They are also attached for the public to  
4 review as part of this PAN item, Public Agenda Notice  
5 item.

6 Other than that, we received changes, or  
7 suggested changes in two areas.

8 One was the proposed addition of Section H,  
9 Board Work Group Policy and Charter, on the -- on  
10 page 12. It would be added to page 12, section -- Roman  
11 numerals VII, Role and Powers of the Board.

12 Since everyone has a copy of the document, I  
13 won't bother reading it.

14 And then the other changes we received were  
15 proposed changes. And I sent out, on the document  
16 that's attached to PAN and sent to the Board Members,  
17 the current text for Roman numeral VIII, Board Chair and  
18 Vice Chair, subsection A, Election of the Board Chair  
19 and Vice Chair on the agenda.

20 You have the current text.

21 And then there were three proposed changes  
22 or -- to that section.

23 The proposed change C is just adding a  
24 sentence, which could be added to either Version A or B.  
25 But it is the Board's discretion at this point, and I'm

1 just here to facilitate any discussions.

2 So if you have any questions, I'm more than  
3 happy to answer. But back to you.

4 MS. COHEN: Yes.

5 I just wanted to actually be a little bit more  
6 thorough in the presentation, just in case folks are  
7 listening at home.

8 MR. NANJO: Sure.

9 MS. COHEN: Maybe they don't have the document  
10 in front of them, or have some kind of impairment. So  
11 can you walk us through the changes?

12 MR. NANJO: Sure.

13 MS. COHEN: Spell it out for us.

14 MR. NANJO: Sure. Absolutely.

15 MS. COHEN: Thank you.

16 MR. NANJO: So the change to Section H is the  
17 inclusion of a section called "H. Board Work Group  
18 Policy and Charter."

19 And the language is -- the language is  
20 pursuant to the Board's authority under Government Code  
21 Section 15606(a) to prescribe rules for its own  
22 governance and transaction of its business, and  
23 Section 15609 to hold meetings each month at times and  
24 places in the state for performing its duties, the Board  
25 has established the following Work Group Policy and

1 Charter as the governance structure to be used when it  
2 determines committees are necessary or useful in  
3 addressing specific issues or concerns.

4 One, the Work Group policy is established to:

5 - Set forth policies that govern Work Group  
6 structure consistent with the Board's constitutional and  
7 statutory responsibilities, and this Governance Policy,  
8 all relevant law, and the Board Proceedings procedures.

9 - Guide the Board in establishing and  
10 convening Work Group meetings while upholding the  
11 effectiveness and integrity of the Board's processes,  
12 including oversight, accountability, transparency,  
13 efficiency and decision-making.

14 - Identify and distinguish between the role of  
15 Board Members and their team members, as well as the  
16 Executive Director and agency team members. This Work  
17 Group policy applies to both Board Members and their  
18 staff.

19 Section two, Chair, Co-Chair and Work Group  
20 Members.

21 - In proposing and establishing a Board Work  
22 Group, the Chair or the Board Member will state its  
23 specific purpose, and who will serve as the Work Group  
24 Chair and Co-Chair.

25 Once approved, the Board -- once approved by



1 the Board, each Board Member will serve as a full Member  
2 and participant of the Work Group.

3 - The Work Group Chair and Co-Chair shall  
4 perform these duties only to conduct and carry out the  
5 assigned purpose of the Work Group, and shall not  
6 interfere with or assume the role of Board Chair or  
7 Vice Chair in Section VIII of this Governance Policy.

8 And that bullet is italicized.

9 - The Work Group Chair and Co-Chair shall  
10 establish the Work Group meeting plan, agenda,  
11 supporting material, and the list of and invitations to  
12 invited/scheduled presenters and participants, the  
13 location and facility, and the preparation of meeting  
14 minutes.

15 - The Chair of the Board and Executive  
16 Director, or designated team member, will review the  
17 meeting plan for legal and technical purposes, and  
18 transmit it to the Board Proceedings Division as  
19 appropriate.

20 - The Work Group Chair and Co-Chair are  
21 responsible for conducting the Work Group meeting and  
22 drafting Work Group report or reports so that the  
23 information is available to the full Board and the  
24 public at a regular date-specific Board Meeting.

25 Three, section three, Notice Requirements of

1 Work Group Meetings.

2 - The Board shall publicly notice each Work  
3 Group meeting consists with -- consistent with the  
4 Public Agenda Notice, or PAN process, and the  
5 Bagley-Keene Open Meetings Act to ensure Board  
6 stakeholders and public of their opportunity to fully  
7 engage in the discussions, actions and decisions of the  
8 Board and have a seat at the table.

9 - Board Work Groups may only discuss meeting  
10 items publicly noticed on the Public Agenda Notice.

11 - The Board Work Group agenda, minutes,  
12 materials and reports shall fulfill all Board  
13 Proceedings procedures and public meeting requirements.

14 - The Board shall schedule the Work Group  
15 adjacent to a regularly scheduled Board Meeting; or, if  
16 due to the urgency or importance of the matter or  
17 demands in competing priorities of BOE team members, the  
18 Board may schedule the Work Group meeting at a different  
19 time.

20 Section four, Report Out on Work Group  
21 Information.

22 - Following the adjournment of the Work Group  
23 meeting, the Work Group Chair shall prepare meeting  
24 minutes and related tasks, including compiling materials  
25 received or reports needed for the full Board's

1 consideration.

2 - The Work Group Chair shall submit the draft  
3 minutes of the Chair of the Board and the Executive  
4 Director for a pre-approval -- I'm sorry. Let me start  
5 that again.

6 - The Work Group Chair shall submit the draft  
7 minutes to the Chair of the Board and the Executive  
8 Director for approval, and upon approval, transmit to  
9 Board Proceedings for posting to the BOE website for  
10 Board approval at a regularly scheduled Work Group or  
11 Board Meeting.

12 - The full Board will direct the Work Group  
13 schedule of updates and reports.

14 - The Work Group Chair shall report at the  
15 Board's next regular scheduled meeting, accompanied by a  
16 written report reflecting the Work Group's discussion,  
17 recommendations and findings.

18 - Conclusion. The Board shall determine and  
19 publicly announce the conclusion and final adjournment  
20 of the Work Group, including the outcome, report or  
21 reports, and/or Board actions resulting from its  
22 efforts.

23 And this submission for -- or suggestion for  
24 change was accompanied by the change to the Board Chair  
25 and Vice Chair, Election Provision, XIII -- excuse me --

1 VIII(A), with the addition of a clause in that paragraph  
2 that basically states the Board's vote for Work Group  
3 Chair and Work Group Co-Chair shall authorize the  
4 Members selected to perform only those Work Group  
5 duties, and to conduct the -- only those Work Group  
6 meetings for the assigned purposes of the Work Group,  
7 and does not connote any transfer of the role of  
8 Board Chair or Board Vice Chair in this  
9 Governance Policy.

10           So that's -- the language that's being  
11 suggested appears to be consistent with this Board's  
12 previously-approved Board Work Group Charter and  
13 Procedures.

14           MS. COHEN: Okay. Thank you.

15           So, colleagues --

16           Thank you very much for reading that into the  
17 record.

18           So, colleagues, I'd like to highlight just my  
19 proposed changes to the election of officers.

20           And as I stated in a prior meeting, I believe  
21 that this is in the spirit of good governance, and that  
22 we should consider the following amendments that -- and  
23 this is on proposed changes B, page 13, Section VIII,  
24 Board Chair and Vice Chair.

25           During an election year, the Board shall defer

1 the election of the Chair and Vice Chair until after  
2 duly elected Board Members are sworn into office.

3 In such instances, the Board will place on the  
4 agenda an election to take place in January for the  
5 offices of Chair and Vice Chair of the Board.

6 And then also, let me skip down a little bit:

7 During an election year, the Chair will  
8 continue to serve as Chair until the election of new  
9 officers and will set and approve the agenda in December  
10 for subsequent January Board Meeting.

11 And if the Chair is termed out, or not  
12 re-elected, or decides not to run for re-election, the  
13 Vice Chair will serve as Chair.

14 If both Chair and Vice Chair are termed out  
15 and not re-elected, or decides not to run for  
16 re-election, the Executive Director will have the  
17 State Controller call the first meeting to order,  
18 pending the election of officers.

19 So there's no limit on serving consecutive  
20 terms. And if there's a tie vote, the currently serving  
21 Chair or Vice Chair, as the case may be, shall continue  
22 to serve.

23 So these, again, are proposed changes. I  
24 believe I've covered them before. That is where we are.  
25 I don't know if there's any questions.

1 Yes, Mr. Vazquez.

2 MR. VAZQUEZ: Yes.

3 Thank you, Chair Cohen, with your proposal.

4 I just have a few questions for Mr. Nanjo.

5 MS. COHEN: Sure.

6 MR. VAZQUEZ: I recall you told us several  
7 times over the past four years that by consensus of the  
8 Board, we can change the Governance Policy language or  
9 place an election for Chair or Vice Chair on the agenda  
10 any time; is that correct?

11 MR. NANJO: Yes, that is correct.

12 Let me -- let me specify a little bit.

13 The item would have to be placed on the  
14 agenda, governance of -- as it was in this case. And  
15 based on a simple majority vote, the Governance Policy  
16 can be changed, either one time or permanently, by the  
17 Board Members.

18 MR. VAZQUEZ: So although we could postpone  
19 the election by making a one-time change or suspending a  
20 provision, we could also place an election on both the  
21 December and the January agendas; is that right?

22 MR. NANJO: Yes, that would be the Board's  
23 pleasure.

24 MR. VAZQUEZ: Either way, what are our options  
25 in terms of interim Chairs and Vice Chairs between

1 December and January when the current Chair, like in  
2 this situation we have now, was elected to another post?

3 MR. NANJO: It would depend on the post that  
4 the person is elected to.

5 The only concern or challenge would be, as in  
6 this case, if the Chair is elected to the Controller  
7 position, the Chair would be -- only be able to serve  
8 until he or she is sworn in as Controller.

9 And at that point, if that same person was  
10 designated Chair of this Board, that would create a  
11 conflict of interest situation.

12 Namely, not in -- specifically, not with  
13 regards to this Board, but the fact that the Chair of  
14 this Board and the Controller serve as Board Members to  
15 the Franchise Tax Board Board, that would create a  
16 conflict. Because, essentially, you would have one  
17 person who has two positions.

18 MS. COHEN: And, Mr. Vazquez, very keen.  
19 You're absolutely right. This could be a potential  
20 conflict. But my recommended amendments address this  
21 issue.

22 MR. VAZQUEZ: I don't think it does.

23 MS. COHEN: Oh, yeah. It does.

24 MR. VAZQUEZ: Am I correct or incorrect on  
25 this one, Nanjo -- Mr. Nanjo?

1                   That's the only reason I was --

2                   MS. COHEN: It states that the Vice Chair  
3 would then step in.

4                   MR. NANJO: Yeah. And even without that  
5 change, that that's what would be what --

6                   MS. COHEN: That's the standing governance  
7 rule.

8                   MR. NANJO: -- would happen, yes.

9                   Because at that point, the Chairperson, who is  
10 Controller, would not be able to serve as Chair. So in  
11 the case -- in a case where the Chair cannot serve, the  
12 Vice Chair could step in.

13                   MS. COHEN: Right.

14                   MR. NANJO: Yes.

15                   MR. VAZQUEZ: So I guess my question is  
16 that -- but the way the governance is written now, the  
17 Vice Chair wouldn't be able to slip into the Chair  
18 position until -- unless he or she was elected in  
19 December; is that correct?

20                   MR. NANJO: Well, I mean, the way -- the way  
21 the --

22                   MR. VAZQUEZ: The way the language is written.

23                   MR. NANJO: The way the language is written  
24 now, the election takes place in December. So you would  
25 have a Vice Chair at that point. So --



1 MR. VAZQUEZ: Right.

2 MR. NANJO: Yeah. Correct. Sorry.

3 MR. VAZQUEZ: So while I hear your concerns, I  
4 would just opt to just leave the -- that section of our  
5 governance as is.

6 Because we do have an opportunity to agendize  
7 it in December. And if for some reason there isn't a  
8 consensus, then we go back to the potential of an  
9 interim, or the Vice Chair stepping in until the new  
10 Members are sworn in in January.

11 That's an option, right?

12 MR. NANJO: Correct.

13 And there's nothing that prevents the Board  
14 from having an election in December, and having an  
15 election in January, or every month.

16 MR. VAZQUEZ: Exactly. As long as there's --

17 MR. NANJO: It wouldn't be -- it wouldn't be  
18 efficient, but it's possible.

19 MS. COHEN: That part. It wouldn't be  
20 efficient. It wouldn't be prudent, and it wouldn't  
21 present well publicly.

22 MR. VAZQUEZ: If we did what? I'm sorry.

23 MS. COHEN: Had a Board -- had an election in  
24 December, turn around, decide to have another one in  
25 January.

1 MR. VAZQUEZ: Well, I'm not proposing we do  
2 that.

3 MS. COHEN: I know.

4 MR. VAZQUEZ: But I --

5 MS. COHEN: But what you're proposing is, I  
6 think what you're -- what you're proposing is, is that  
7 we continue to keep the governance structure the way it  
8 is.

9 MR. VAZQUEZ: Yes.

10 MS. COHEN: And what -- what -- the problem  
11 with that, even with the original writing of the  
12 language, is that it does not take into consideration  
13 new Board Members.

14 So, essentially, you are silencing a future  
15 Board Member, your future colleague that you're going to  
16 be relying on for votes, from even having an opportunity  
17 to not only participate in a vote, but also be in  
18 consideration for a leadership position on the body.

19 And I think that is woefully undemocratic  
20 and -- and unfair. So that is why these amendments that  
21 we're proposing will clarify and address your issues  
22 about changes, but also acknowledge that this body is  
23 going to have a new Member on it in January. So to have  
24 a vote in December on leadership, I think is a bad faith  
25 effort.

1           This is a person that's going to join you on  
2 this team, and then you're going to say, because of the  
3 deadlines -- not the deadlines, but on when a person is  
4 sworn in, she will not be able to take a vote?

5           I mean, that's just -- I think we should be  
6 very cautious or aware of that.

7           MR. VAZQUEZ: I'm very cautious of that.

8           And my only concern is that I thought we set  
9 the governance up specifically to set the tone for  
10 January for the next election. I don't see a new --

11          MS. COHEN: When we -- what we set up --

12          MR. VAZQUEZ: Can I finish? I let you finish.

13          MS. COHEN: Sure.

14          MR. VAZQUEZ: So at the end of the day, I see  
15 no -- I don't see this being undemocratic. I just see  
16 this being leadership.

17          I don't see a new Board Member, one new  
18 Board Member getting elected and being sworn in and all  
19 the sudden becoming the Chair.

20          MS. COHEN: True.

21          MR. VAZQUEZ: Because we're just talking about  
22 the Chair, at the end of the day.

23          I have no problem on holding back, you know,  
24 if you want to hold back the Vice Chair, as an example,  
25 because she may be interested in that. But at the end

1 of the day, the Chair, I think, should go through the  
2 process that we did.

3 The only reason we had a new Member in 2018  
4 when we came in is because we were all new. All four of  
5 us were new. It wasn't like we were -- there were two  
6 Members that were rolled over from the previous Board,  
7 which I could see why they would possibly at least  
8 select their Chair.

9 And I think if you go back to the history of  
10 this Board, I think that's the way it's been run for  
11 many, many years. So while I agree with you that it's  
12 good to be inclusive, and I -- and I want to be  
13 inclusive, but at the end of the day, I don't think it  
14 should stop our movement and our leadership.

15 Because at the end of the day, whoever gets  
16 elected as the Chair to start in January should have the  
17 opportunity working with our staff in December to  
18 prepare the agenda for January.

19 You're asking us now to kind of limp along  
20 from December to January, because we're going to be  
21 missing our leadership.

22 And congratulations on your role. I mean,  
23 you'll be coming back. But we'll be headless for that  
24 period.

25 MS. COHEN: Well, no. We will never -- we are

1 not headless.

2 But I think what I'm going to cautious this  
3 body is that we are -- your argument is based on a very  
4 unique situation to this cycle of where we are. What  
5 I'm proposing is something that will solve future  
6 problems.

7 This is a Governance Policy. It is a document  
8 that is -- that is fluid, that will be broad and  
9 encompass and address future other challenges that we  
10 may not see or we may not anticipate.

11 You will have leadership in December. You  
12 will have leadership in January. And you still have the  
13 flexibility to call and change the Governance Policy  
14 moving forward.

15 I'm asking us to think in a broader sense  
16 that -- and understand that the policy-suggested changes  
17 incorporate other possible challenges that we're going  
18 to see.

19 Correct me if I'm wrong, Mr. Nanjo -- I see  
20 you're nodding your head in agreement. I just want to  
21 make sure that we are not being myopic and small, and  
22 just looking at this -- this one election cycle, and  
23 trying to make a decision based on that.

24 So, Mr. Vazquez, what I'm asking is, is that  
25 we simply demonstrate good governance, and that we're

1 setting a solid policy that is universal, that would be  
2 able to accommodate all scenarios of whether we have all  
3 new Board Mem -- all new Board, or we have half new  
4 Board Members in the seat, who knows.

5 I mean, there could be -- people could step  
6 down in an untimely -- an untimely reason. Someone  
7 could get sick. Someone could -- anything could happen.

8 So this policy that I'm proposing, this slight  
9 amendment actually just accommodates for these types of  
10 fluctuations, so that, you know, the leadership is  
11 definitely clear. This is -- yeah. I don't --

12 MR. VAZQUEZ: No, I agree with you.

13 MS. COHEN: Great.

14 MR. VAZQUEZ: And like you -- like you  
15 mentioned in your earlier remarks, you said that this  
16 document is fluid. Which is true. So I think there's  
17 no problem with us moving forward and leaving as is.

18 And in the event something should happen, like  
19 you mentioned, not this situation, but, you know, two  
20 years from now when there's another election where  
21 there's a vacuum, and all the sudden there's all new  
22 Members, there's nothing stopping that Board from  
23 changing it prior to that election.

24 Because you do have this little window. Like  
25 we have this window right now. For example, if we stick

1 to what we have, and have our elections every December,  
2 if for some reason two years from now all four of us  
3 decide to move on somewhere else -- or even in two  
4 years, you know, if we decide to move on, and there's a  
5 vacuum, before -- yeah, whether it's two or four.

6 MR. GAINES: In four years there will be a big  
7 change.

8 MR. VAZQUEZ: Yeah. But even two years, let's  
9 say, for some reason we decide to run for another office  
10 in two years, or decide to step down, and there's no  
11 new -- nobody sticking around. In the event that should  
12 happen, we still have a little window where we could  
13 change this Governance Policy.

14 So I don't -- you're making it sound like this  
15 is set in stone. It's not set in stone. This is a very  
16 fluid document that can be changed at any time.

17 MS. COHEN: Actually, fluidity, that's the  
18 word I used to describe it. I'm not saying this is set  
19 in stone in anyway.

20 MR. VAZQUEZ: Yes.

21 MS. COHEN: I see what we saw -- we saw what  
22 happened when we were sworn in. It worked.

23 Mr. Schaefer is here to lead should -- in  
24 January. And what it is, is you're presiding over  
25 basically the election, and then the gavel is then

1 turned over.

2 So I don't fully appreciate nor understand  
3 your concerns. Like what -- what's the issue?

4 MR. VAZQUEZ: Well, I don't -- I don't see a  
5 problem that this is solving, your -- your proposal,  
6 your changes.

7 Because at the end of the day, Vice Chair  
8 Schaefer, he still has the right -- he can run in  
9 December, if he's interested in running for Chair.  
10 There's nothing stopping him from running for Chair in  
11 December. And if it turns out he has the consensus of  
12 the Board, we move forward. Or whoever it may be that  
13 takes on the leadership.

14 So I don't see the reason we need to change it  
15 now, I guess. I don't see the problem the way you're  
16 looking at it.

17 But I could be wrong. I guess we'll ask our  
18 colleagues and see.

19 MS. COHEN: So I think what I'm hearing from  
20 Mr. Vazquez is that he doesn't have a problem with,  
21 although the Board is made up one way in December, and  
22 the Board will have a reconfiguration in January, that  
23 election will still hold moving into January.

24 What happens is, is what's concerning, and we  
25 are in a democracy, is that you are literally silencing



1 one of your Members from being able to exercise.

2 MR. VAZQUEZ: I don't think so. That's where  
3 we disagree.

4 MS. COHEN: Okay.

5 MR. VAZQUEZ: Yeah.

6 MS. COHEN: That's where we disagree.

7 MR. GAINES: I -- I don't know why we have to  
8 change it. I -- it seems to me that the policy we have  
9 in place currently, you know, is something that we  
10 already determined through our Governance Policy. And I  
11 think there is -- there's flexibility there.

12 If with a new Member coming in, let's say we  
13 go ahead and make a decision on who the Chair is in  
14 December, and if the new Member coming on the Board does  
15 not like that, that individual can bring it up and  
16 challenge the Chairmanship at that time, and take  
17 another vote, and see if it stands.

18 But -- because I do believe there's enough  
19 flexibility there for that to occur if that's the will  
20 of the Board. You know, you've got to get three each  
21 time. You'd have to do it in December.

22 And I do like the idea of having some  
23 consistency carryover of someone with experience that  
24 would be a Chair of this Committee. And of course they  
25 would have to -- that individual would have to prove

1 that to the new Board Member in terms of providing that  
2 stability as to whether they're flexible or comfortable  
3 with it, or challenge it.

4 MR. VAZQUEZ: I agree.

5 MS. COHEN: Okay. Mr. Schaefer, do you have  
6 any comments?

7 MR. SCHAEFER: Well, I -- I'm really not in  
8 favor of adding all kinds of new provisions for Work  
9 Groups and for how we elect people, because we can do  
10 that when the time arises. The Board may have entirely  
11 new interest with a new Chair and new Vice Chair.

12 But I admire the concern and creativity of our  
13 Chair here, and I would tend to support what she's  
14 trying to do, knowing that if it doesn't work out, we  
15 can unwind it all in a few months.

16 You know, nothing that we really do is set in  
17 stone. And it's nice that you bring these matters up.  
18 But I'm not excited about the change. It's not saving  
19 any money for the taxpayers. It's just, you know,  
20 dealing with how we function. And that's a very  
21 important thing, too.

22 MS. COHEN: Mm-hm. I don't know if  
23 Mr. Epolite has any comments, or if he's -- I'm assuming  
24 you're going to be voting on this.

25 MR. EPOLITE: I'm not going to be voting on

1 this item. But I have a concern about some of the  
2 specific language that's going to be adopted. So --

3 MS. COHEN: You can raise your concerns now if  
4 you'd like.

5 MR. EPOLITE: Yes.

6 On two of the proposals that are before us,  
7 and on the existing language, I wanted to bring to the  
8 Members' attention that two of the proposals include  
9 language, and the existing language, include in the  
10 first sentence of the paragraph A replacement language,  
11 which provides, quote, "or earlier if there's no  
12 December meeting."

13 And that's in the existing language of  
14 paragraph A.

15 MS. COHEN: I'm sorry. Can you repeat that  
16 one more time?

17 MR. EPOLITE: Sure.

18 Quote -- and if you're looking in section A,  
19 the first sentence, it ends with the clause "or earlier  
20 if there's no December meeting," unquote.

21 MS. COHEN: So you're proposing we -- new  
22 language?

23 MR. EPOLITE: The deletion of some language  
24 from --

25 MS. COHEN: Your proposal is about clean-up

1 language?

2 MR. EPOLITE: Yes.

3 MS. COHEN: Got it. Okay.

4 MR. EPOLITE: And I just wanted to point out  
5 to the Members, under current law, Government Code  
6 Section 15609 mandates that the Board shall hold regular  
7 meetings each month at times and places within this  
8 state as the Chairperson directs.

9 Before this, under -- this statute was amended  
10 in 2009, Section 15609 provided that, quote, "the Board  
11 shall hold regular meetings at the State Capitol each  
12 month, and may hold special meetings at such times and  
13 places within the state as the Chairman directs,"  
14 unquote.

15 Based upon this Government Code statute, then  
16 it would be inappropriate to include any statement in  
17 the Governance Policy that there might not be a  
18 Board Meeting in any particular month of the year.

19 As such, I would recommend that any language  
20 approved today delete the clause, quote, "or earlier if  
21 there is no December meeting," unquote, from its  
22 proposal if approved, as the Government Code clearly  
23 mandates monthly Board of Equalization Meetings.

24 So I would -- that's my recommendation.

25 MS. COHEN: Okay. So just for the record, the

1 recommendation is a little bit off topic on what we were  
2 talking about. So that's okay. We will accept them,  
3 and we can take them up.

4 And let's go to see if there's any public  
5 comments. And then we will skip taking action on this  
6 item, and we'll move forward on the agenda.

7 MR. EPOLITE: Thank you.

8 MS. COHEN: Thank you, Mr. Epolite. Yeah.

9 MS. CICHETTI: AT&T moderator, can you let us  
10 know if there's anyone on the line who would like to  
11 make a public comment regarding this item?

12 AT&T MODERATOR: Ladies and gentlemen, to make  
13 a comment on this item, please press one, zero at this  
14 time.

15 Once again, for comments, press one, zero,  
16 please.

17 And we have no callers in queue.

18 MS. COHEN: Great. Thank you.

19 All right. So we've taken a little bit of  
20 public comment. We're going to table this item to later  
21 on in the agenda.

22 Let's call the next item, please.

23 MR. NANJO: Thank you, Board Members.

24 MS. COHEN: Thank you, Mr. Nanjo.

25 MR. VAZQUEZ: Excuse me, Madam Chair. Just a

1 procedural question.

2 So where does this leave us? You're gonna --

3 MS. COHEN: We're tabling this for later on in  
4 the agenda today.

5 MR. VAZQUEZ: Today?

6 MS. COHEN: Today.

7 MR. VAZQUEZ: We're not prepared to vote on  
8 part of it, though?

9 MS. COHEN: Yep. We're not voting on it. I'm  
10 not calling it. We're moving the agenda. We're going  
11 to the next item.

12 MR. VAZQUEZ: But I want to call the -- I want  
13 to call the -- I want to make a motion then.

14 I'd like to make a motion that we leave the  
15 items -- well, take --

16 MS. COHEN: Excuse me. Just a point of  
17 procedure. I believe I already called the next item.

18 Mr. Nanjo, if you could bring some clarity.

19 MR. NANJO: I don't think the next item has  
20 been called yet. So technically, if there's a motion --

21 MS. COHEN: Well, I called it --

22 MR. VAZQUEZ: I'd like to make a motion --  
23 but -- but --

24 MS. COHEN: -- and was interrupted.

25 MR. VAZQUEZ: There's a --

1 MR. NANJO: Yes.

2 MR. VAZQUEZ: -- parliamentary procedure here  
3 that I'm disagreeing with the Chair's request to move  
4 off of an item. Because we were discussing something  
5 here.

6 I think we can vote on part of this. And if  
7 you want to table the election of the December piece, I  
8 have no problem. We can table that, if you want to do  
9 that.

10 MS. COHEN: Well, I appreciate that you have  
11 no problem. I --

12 MR. NANJO: Technically, under Robert's Rules  
13 of Order, a tabling of an item requires a vote. So that  
14 would require a motion and a vote.

15 Other than that, the clerk has not called the  
16 next item, so technically, we're still --

17 MR. VAZQUEZ: In discussion.

18 MR. NANJO: -- in discussion. Correct.

19 MS. COHEN: This item is going to be addressed  
20 later on in today's meeting.

21 MR. NANJO: Okay.

22 MR. VAZQUEZ: Now, you're asking -- so you're  
23 making a motion to table it?

24 MS. COHEN: Is a motion required?

25 I'm under the impression we can skip this

1 item, and we can go onto the other portion of the  
2 agenda.

3 MR. VAZQUEZ: I mean, my recollection of the  
4 parliamentary procedures says different, but I could be  
5 wrong.

6 MR. NANJO: I'll have my Governance Attorney  
7 weigh in, Ms. Himovitz.

8 MS. HIMOVITZ: So my name is Julia Himovitz,  
9 for the record. I'm an attorney with the Board.

10 So, procedurally, I believe that you do need a  
11 motion to table this. My recommendation right now might  
12 be to take a break, so that we can look into the answer  
13 for you.

14 MS. COHEN: Thank you.

15 MR. VAZQUEZ: Sure.

16 MS. COHEN: All right. We'll take a break.

17 Thank you, Julia.

18 MS. HIMOVITZ: Thanks.

19 MS. CICHETTI: We're gonna go into break at  
20 this time.

21 MS. COHEN: Yes. It's 10:48. We're breaking.

22 MS. CICHETTI: A 5-minute break.

23 Thank you.

24 (Whereupon a break was taken.)

25 MS. COHEN: All right. We're coming back into



1 session. It's 10:56.

2 MS. HIMOVITZ: So we looked into the issue,  
3 and in order to table the matter, it will require a  
4 motion from --

5 MR. VAZQUEZ: Correct.

6 MS. HIMOVITZ: -- yourself.

7 MS. COHEN: Sure.

8 Okay. Thank you.

9 Well, I'll make a motion that we continue this  
10 item for later on in the agenda.

11 And I would like a second on that motion.

12 Is there a second?

13 MR. EPOLITE: I'll second that motion.

14 MS. COHEN: Thank you very much.

15 Let's call the roll call vote, please.

16 MS. HIMOVITZ: Public comment.

17 MS. COHEN: Oh, yes. We'll take public  
18 comment on the issue of -- on the motion to table this  
19 discussion.

20 MS. CICHETTI: AT&T moderator, could you let  
21 me know if there's anyone on the line who would like to  
22 make a public comment regarding this motion?

23 AT&T MODERATOR: Ladies and gentlemen, for  
24 public comment, please press one, zero.

25 Once again, if you wish to make a comment,

1 press one, zero, please.

2 We have no callers in queue.

3 MS. COHEN: Thank you.

4 Please call the roll.

5 MR. VAZQUEZ: Before we take a roll call vote,  
6 just a point of information, Madam Chair.

7 I noticed in your comments earlier you  
8 mentioned that this item was coming up on the agenda  
9 later. And I'm looking at the agenda, I don't see where  
10 it's coming up again.

11 MS. COHEN: The motion that I've made, that  
12 has been --

13 MR. VAZQUEZ: No, I'm not talking about the  
14 motion. I'm talking about your comment you made earlier  
15 and the discussion.

16 You said that we were going to take up this  
17 item later in the agenda, and I don't see it on the  
18 agenda anywhere else.

19 MS. COHEN: Julia.

20 MS. HIMOVITZ: Excuse me.

21 Right now there is a motion on the table.  
22 You're welcome to have a discussion on the motion. The  
23 motion is to table it to discuss later, which the Chair  
24 has the right to do to push it later.

25 In the motion, if you'd like -- my

1 recommendation -- excuse me -- would be, if you'd like  
2 to have a specific timer when it may or may not be  
3 called, it hasn't been handled yet. The motion is  
4 simply to move it.

5 And so if the question perhaps could be as to  
6 when it would be called, would be an appropriate --

7 MR. VAZQUEZ: Thank you.

8 MS. CICHETTI: Chair Cohen has made a motion  
9 to table Item I1a to later on today, and it has been  
10 seconded -- the second has been received by  
11 Deputy Controller Epolite.

12 I'll call the roll.

13 Chair Cohen.

14 MS. COHEN: Aye.

15 MS. CICHETTI: Vice Chair Schaefer.

16 MR. SCHAEFER: Aye.

17 MS. CICHETTI: Member Gaines.

18 MR. GAINES: No.

19 MS. CICHETTI: Member Vazquez.

20 MR. VAZQUEZ: No.

21 MS. CICHETTI: Deputy Controller Epolite.

22 MR. EPOLITE: Aye.

23 MS. CICHETTI: The item passes, 3-2.

24 MS. COHEN: Thank you.

25 We'll take it up later on in the agenda today.

1 Thank you.

2 Ms. Cichetti, could you call the next item.

3

4 **ITEM J1**

5

6 MS. CICHETTI: The next item on the agenda is  
7 Administrative Session, J, Administrative Consent  
8 Agenda.

9 We will take these two consent items up in one  
10 vote.

11 J1 is the adoption of the retirement  
12 resolution of Michael Dean Saunders.

13 I'm going to read his resolution into the  
14 record.

15 Honoring Michael Dean Saunders on his  
16 retirement.

17 Whereas, Michael Dean Saunders, Senior  
18 Specialist Property Appraiser in the County-Assessed  
19 Properties Division, Training and Certification Unit,  
20 will retire on December 30th, 2022, after 20 years of  
21 outstanding and meritorious service to the State of  
22 California and the California Board of Equalization.

23 And, whereas, Michael began his career with  
24 the California State Department -- California State  
25 Board of Equalization on August 1st, 2007, as a Junior

1 Property Appraiser in the Assessment Services Unit  
2 within the Property Tax Department's County-Assessed  
3 Properties Division.

4 And, whereas, as a result of diligent work and  
5 demonstrated ability, he advanced to positions of  
6 increasing responsibility, first earning appointment to  
7 the position of Assistant Property Appraiser in  
8 August 2008, and Associate Property Appraiser in  
9 August 2010.

10 Whereas, on January 31st, 2014, as a result of  
11 his exemplary work ethic and dedication to the  
12 workplace, he promoted to Senior Specialist Property  
13 Appraiser within the Assessment Services Unit.

14 In August 2016 he transferred to the  
15 Assessment Practices Survey Unit, where he was part of a  
16 survey team conducting compliance audits and samples of  
17 the 58 County Assessors' practices and procedures in an  
18 effort to promote statewide uniformity and consistency  
19 in property tax assessment throughout the state.

20 And, whereas, on March 1st, 2021, he  
21 transferred to the Training and Certification Unit  
22 within the County-Assessed Properties Division, where he  
23 was an instructor and provided training to BOE staff and  
24 County Assessors and their staff on real property tax  
25 matters, such as the valuation of agricultural,

1 California Land Conservation Act, and taxable possessory  
2 interests properties.

3 And, whereas, throughout the many years of  
4 service, Michael has served the people of this state  
5 with fairness and dedication.

6 Therefore, be it resolved that we, the Members  
7 of the Board, do hereby extend to Michael Dean Saunders,  
8 our sincere and grateful appreciation for his dedicated  
9 service to California State Board of Equalization and  
10 the State of California, our congratulations on his  
11 well-earned retirement, and best wishes to him and his  
12 family for continued success, happiness, and good health  
13 in the years to come.

14 MS. COHEN: Thank you very much. I appreciate  
15 you reading that.

16 Mr. Saunders, wanted to say congratulations to  
17 you, and we wish you well on this new transition in  
18 life.

19

20 **ITEM J2**

21

22 MS. CICHETTI: The next item up for your  
23 consideration for the Consent Agenda is J2, the Board  
24 Meeting Minutes for October 18th-19th, 2022.

25 The minutes of the meeting were attached to

1 the Public Agenda Notice for your consideration.

2 MS. COHEN: Members, would anyone like to  
3 address any discrepancy in the minutes?

4 If not, is there a motion to accept both these  
5 items?

6 MR. VAZQUEZ: So moved.

7 MS. COHEN: Thank you.

8 Let's take public comment.

9 MS. CICHETTI: AT&T moderator, could you let  
10 us know if there's anyone on the line who would like to  
11 make a comment on this item?

12 AT&T MODERATOR: Ladies and gentlemen, for  
13 comment, please press one, zero.

14 Please press one, zero for comments.

15 Madam Chair, we have no callers in queue at  
16 this time.

17 MS. COHEN: Thank you very much.

18 Let's keep moving.

19 MS. CICHETTI: I just wanted to make sure we  
20 had a second on that.

21 MS. COHEN: Mr. Vazquez made a second, for the  
22 record.

23 MR. VAZQUEZ: I made the motion.

24 MS. COHEN: No, I made --

25 MR. VAZQUEZ: Oh, did you make the motion?

1 I'm sorry.

2 MS. COHEN: I made the motion, and you made  
3 the second.

4 MR. VAZQUEZ: Oh. Guess I made the second  
5 then.

6 MS. CICHETTI: Just wanted to clarify for the  
7 record.

8 MS. COHEN: Okay. Thank you for that clarity.

9 MS. CICHETTI: Sure.

10 Chair Cohen has made the motion to adopt the  
11 Retirement Resolution of Mr. Saunders and the  
12 October 18-19, 2022 minutes, and Mr. Vazquez second.

13 I'm going to take the roll.

14 Chair Cohen.

15 MS. COHEN: Aye.

16 MS. CICHETTI: Vice Chair Schaefer.

17 MR. SCHAEFER: Aye.

18 MS. CICHETTI: Member Gaines.

19 MR. GAINES: Aye.

20 MS. CICHETTI: Member Vazquez.

21 MR. VAZQUEZ: Aye.

22 MS. CICHETTI: Deputy Controller Epolite.

23 MR. EPOLITE: Aye.

24 MS. CICHETTI: The motion passes.

25 MS. COHEN: Thank you.





1 update on revenues related to the implementation of  
2 Prop. 19, and give an update on the conference with the  
3 annual California Assessors' Association.

4 Members, last month's meeting, the Board  
5 requested an update on the revenue impact related to  
6 Prop. 19.

7 As a brief recap, Prop. 19, titled, The Home  
8 Protection for Seniors, Severely Disabled, Families, and  
9 Victims of Wildfire or Natural Disasters Act, was  
10 approved by voters on November 3rd, 2020, general  
11 election.

12 In short, for today's report, the Department  
13 of Finance has indicated that there is no revenue impact  
14 for fiscal year 2021, 2022. However, let me provide a  
15 little bit more background.

16 While the BOE plays a critical role in the  
17 implementation of Prop. 19, it is the Department of  
18 Finance, the California Department of Tax and Fee  
19 Administration, and the State Controller's Office that  
20 are responsible for administrating the revenue impacts.

21 Prop. 19 added Section 2.2 of Article XIII of  
22 the -- Article XIII A of the California Constitution to  
23 annually allocate any additional revenue or savings that  
24 accrue to the state due to the additional local property  
25 tax revenue from implementation of property tax change,

1 as calculated by the Director of Finance using a  
2 calculation prescribed by the measure in the following  
3 manner:

4 75 percent to the newly-created California  
5 Fire Response Fund, which shall be appropriated by the  
6 Legislature to expand fire-suppression staffing; and  
7 15 percent to the newly-created County Revenue  
8 Protection Fund, which is continuously appropriated to  
9 reimburse counties and local agencies with a negative  
10 gain or revenue decrease, resulting from the Prop. 19  
11 tax changes.

12 Section 2.2 requires the Director of Finance,  
13 on or before September 1st, 2022, and annually,  
14 thereafter, through 2020 to '27, to calculate the  
15 additional revenue and savings that accrued to the state  
16 from implementation of 2.1.

17 The measure specifies that in making a  
18 calculation, the Department of Finance should use actual  
19 data of best available estimates where actual data is  
20 not available.

21 The Department of Finance is also required to  
22 certify the results to the legislators and to the  
23 Controller no later than September 1st of each year.

24 Two interactions between the local property  
25 tax and state budget are relevant in the calculation.

1           First, personal income taxpayers can deduct  
2 real estate taxes from their gross income; thereby,  
3 reducing their tax liability; hence, an increase in  
4 local property taxes will lead to a decrease in the  
5 state personal income tax revenue.

6           Second, increase to local property tax revenue  
7 can potentially result in savings to the state, to the  
8 reduction in the state's funding obligation under  
9 Section 8, Article XVI. Prop. 98 back in the day.

10           As reported in their September 1st, 2022  
11 letter, the Department of Finance calculated that there  
12 was no additional revenue and no increased savings to  
13 the state from Prop. 19 for fiscal year 2021 to 2022.

14           Therefore, the Controller will not transfer  
15 any funds to the California Fire Response Fund or the  
16 County Revenue Protection Fund for fiscal year  
17 2021-2022.

18           That's a lot, so I'm going to take a breath.  
19 And before I go to the next part of this report, are  
20 there any questions?

21           MR. VAZQUEZ: Yes.

22           MS. COHEN: Mr. Vazquez.

23           MR. VAZQUEZ: Thank you, Madam Chair.

24           Thank you, Ms. Stowers, for the Department of  
25 Finance report.

1           Let me make sure I understand this correctly.  
2       So the Department of Finance is required by Prop. 19 to  
3       calculate annually by September 1 the amount of money  
4       that the State Controller must transfer to the -- this  
5       new California Fire Response Fund; is that correct?

6           MS. STOWERS: That's correct.

7           MR. VAZQUEZ: And the first year's calculation  
8       has been completed, and the amount of money that will be  
9       transferred to this California Fire Response Fund is  
10      zero, correct?

11          MS. STOWERS: That's correct, sir.

12          MR. VAZQUEZ: But according to the ballot  
13      measure, Prop. 19 would increase revenue by tens of  
14      millions of dollars per year for both the state and  
15      local governments, and most of this new state revenue  
16      would be spent on fire protection.

17                 Do you know what the projected -- who  
18      projected those tens of millions?

19          MS. STOWERS: I do not know, sir.

20          MR. VAZQUEZ: I'm afraid -- and this will  
21      support the accusations of 60 or more taxpayers who  
22      testified before us in our annual Taxpayers' Bill of  
23      Rights hearing in August -- on August the 30th, that  
24      Prop. 19 had misled voters and was triggering major  
25      property tax increases on the inherited properties,

1 often wiping out the wealth of lower and middle-class  
2 families whose parents and grandparents sacrificed to  
3 become property owners intending to pass that property  
4 on.

5           And, I mean, the only good thing is that the  
6 Senator that created this disaster legislation lost his  
7 bid. So he's no longer in public office.

8           But at the end of the day, the public was  
9 fooled. Because you've just confirmed what I thought  
10 all along. This is not even going to help the  
11 firefighters.

12           I mean, it's supposed to -- it was supposed to  
13 generate this money the first year. We're in year two,  
14 and it's still zero.

15           MS. STOWERS: I understand your concern, sir.  
16 I didn't do the calculations.

17           MR. VAZQUEZ: I know you didn't.

18           MS. STOWERS: Department of Finance did.

19           MR. VAZQUEZ: But I think the public needs to  
20 hear this.

21           MS. STOWERS: Yes, I understand.

22           MR. VAZQUEZ: Thank you.

23           MS. COHEN: Is there anything else to your  
24 report?

25           MS. STOWERS: I think Member Gaines had a

1 question.

2 MR. GAINES: Yeah, if I could.

3 MS. COHEN: Okay. Mr. Gaines.

4 MR. GAINES: Yeah. Thank you.

5 I wanna -- appreciate the comments from  
6 Member Vazquez in terms of the tax revenue. Where is  
7 the tax revenue going, right?

8 So if three-quarters of it was supposed to go  
9 to fire, hiring of additional staffing, and not one  
10 dollar is headed in that direction until, I guess, the  
11 22-23 budget period, for which we'll have to ask the  
12 question again. It makes you wonder.

13 That also indicates that no money is going to  
14 counties to help offset -- I'm assuming the 15 percent  
15 to counties was to offset the expense of the  
16 implementation of Prop. 19?

17 MS. STOWERS: It was to offset if there was a  
18 decline in their revenue.

19 MR. GAINES: Okay.

20 MS. STOWERS: With the -- basically when it  
21 comes to the base year transfers.

22 MR. GAINES: Okay. All right. That's still  
23 an issue with counties, though.

24 MS. STOWERS: But your -- the substance is  
25 correct, there's no money going into that fund either.

1           MR. GAINES: Yeah. Okay. To offset the  
2 difference in tax -- the income taxes verses the  
3 property tax, right?

4           But I'm hearing from a lot of my county  
5 assessors that they're already incurring expenses as a  
6 result of implementing Prop. 19. And they need  
7 financial help, too, in terms of implementing this.

8           So I've heard the same cries from my  
9 constituents. These are first-generation individuals  
10 that have developed wealth, and people that have worked  
11 very hard to get where they are. And now they're having  
12 to sell off properties, or their children, or  
13 grandchildren will.

14           Because there's enough cases out there where  
15 the taxes have gone up so dramatically over the last 30,  
16 40, 50 years, depending on how long the parent or  
17 grandparent held that property, that it creates a  
18 financial challenge to retaining it.

19           And so I've always been against Prop. 19. I  
20 continue to be against it. I hope that there is a fix  
21 with this element.

22           Because I think the base year transfer  
23 opportunity is a good one for taxpayers. And it's just  
24 this aspect of revaluing property upon the passing when  
25 property is going to a child or grandchild.



1           And it's so difficult here in the state of  
2 California to develop wealth. Because it's a very  
3 expensive state to live in. It's a state that we love.  
4 But it's just really tough to make it work to even buy a  
5 home.

6           And so when we talk about the buriers, and  
7 we've talked about that a lot here. And I give credit  
8 to my colleagues for trying to look for solutions for  
9 homeownership.

10           But if -- if we don't give that to the next  
11 generation for an opportunity to develop wealth they can  
12 then pass on, then we're really going backwards, and  
13 we're turning into a -- what could be a poor state.  
14 Which is not the California dream. So we'll continue to  
15 monitor this.

16           Thank you for the update. I appreciate it.

17           And let's just make sure that it's, you know,  
18 as much as we don't -- I'll speak for myself. The  
19 challenges that I have with Prop. 19, as much as I have  
20 challenges with the initiative, in and of itself, we  
21 have to make sure it's fairly implemented, and it  
22 actually does what it said it would do in terms of these  
23 funding mechanisms.

24           So thank you.

25           MS. STOWERS: Thank you.

1           Okay. The second part of this report --

2           MS. COHEN: Real quick, I just want to thank  
3 you for responding to my request for this report out.  
4 It's important that there is full transparency and eyes  
5 on this process. And I figure that this is only the  
6 beginning. There will be more reports on -- on this  
7 subject matter. And I look forward to all the  
8 subsequent reports.

9           MS. STOWERS: Absolutely, Madam Chair. This  
10 definitely was your request. And this is where we're  
11 at.

12          MS. COHEN: Yeah.

13          MS. STOWERS: And we will continue to get  
14 reports, as you will, obviously, and report out. Since  
15 we do play a key role in Prop. 19.

16                 And so I wanted to kind of go over the second  
17 part of it. The second part is that second fund where  
18 CDTFA is required to do the allocation, and based on  
19 what the counties are reporting to them on where they  
20 have their revenue loss and revenue gains.

21                 That's their responsibility. They started an  
22 interested parties process. They did a discussion paper  
23 where the assessors and the county treasurers and  
24 auditors had an opportunity to provide input on how they  
25 thought the allocation should be.

1 I know there has been several assessors that  
2 have spoken to you guys about this process and felt like  
3 they weren't being heard. And that was another -- we  
4 heard that last month as well.

5 So we did look into -- we're -- we're with  
6 CDTFA right now. And they spoke with me. They are  
7 doing regulation. The regulation is actually scheduled  
8 to come out tomorrow for public comment.

9 Yesterday, at the CEA conference, this topic  
10 came up again, and they expressed their frustration.  
11 And then there was some concerns on CDTFA side, they did  
12 not want to step on our toes and our oversight rule,  
13 although they have the responsibility to do the  
14 allocation.

15 So acknowledging the pain and the issues that  
16 the assessors are feeling, I expressed that I will be  
17 more than happy to be that bridge, reach out to CDTFA,  
18 coordinate with the California Assessors' Association,  
19 so that we can speak with one voice on what they need  
20 for this allocation to work.

21 MR. GAINES: Thank you.

22 MS. STOWERS: More news to come.

23 MR. GAINES: Great.

24 MS. STOWERS: Okay.

25 MS. COHEN: Mr. Epolite has a comment.

1           MR. EPOLITE: Thank you for your leadership on  
2 that. Much appreciated.

3           MS. STOWERS: So that kind of puts me into the  
4 conference, my second item.

5           We had the annual, the 120th annual CEA  
6 conference in Solano County.

7           This year's meeting provided an opportunity  
8 for collaboration engagement with all partners in  
9 Property Tax Administration, with the 58 County  
10 Assessors, and the newly-elected assessors.

11           I would like to thank CAA for inviting the BOE  
12 to attend and participate. And I would like to  
13 acknowledge that CAA was very happy and impressed with  
14 our participation. They were very pleased to see,  
15 whether they saw Members or their designees.

16           MS. COHEN: Great.

17           MS. STOWERS: Yeah.

18           MS. COHEN: That's good to hear.

19           MS. STOWERS: Okay.

20           Next, Members, next week is Thanksgiving.  
21 Therefore, I'd like to take the opportunity to wish the  
22 Members and the entire BOE family a happy and healthy  
23 holiday.

24           And finally, Members, I would like to take a  
25 moment to send our condolences to former

1 Executive Director, Brenda Fleming, on the passing of  
2 her father, Mr. Donald Joiner, on November 5th. And I'd  
3 like to ask that today's Board Meeting be adjourned in  
4 his honor.

5 His service was this past Tuesday. We had  
6 great representation from the Executive Team,  
7 Executive Office, Board Member staff.

8 And since I was at the conference, I  
9 participated via Zoom.

10 That completes my report.

11 MS. COHEN: Thank you.

12 MS. STOWERS: The team will provide  
13 presentations on day-to-day operations.

14 MS. COHEN: Thank you.

15

16 **ITEM K1b**

17

18 MS. CICHETTI: The next item on the agenda is  
19 Other Administrative Matters, Executive Director's  
20 Report K1b, Operational Priorities: Report on the status  
21 of the operational priorities of the BOE.

22 This matter will be presented by Ms. Renati.

23 MS. RENATI: Good morning, Chair Cohen and  
24 Honorable Members.

25 I am Lisa Renati, Chief Deputy Director.

1           Today I will report on some of the agency's  
2 operational priorities and projects.

3           The first item is our workforce capacity.

4           Due to our improved recruitment approaches  
5 over the past two-and-a-half years, we have achieved  
6 better outcomes and greatly reduced our vacancies.

7           We continue to actively recruit our remaining  
8 vacancies using our lessons learned and leveraging the  
9 services of CDTFA.

10           These include active participation in  
11 in-person and remote recruitment fairs, creation of  
12 recruitment materials, augmented recruitment training,  
13 use of multiple recruiters from diverse backgrounds and  
14 units within the agency, targeted online recruitment,  
15 and establishment of a career opportunity's web page.

16           As we continue to ensure that we have the  
17 workforce capacity we need, we acknowledge there are  
18 some confines in our current classification structures.

19           To address these issues, we are actively  
20 engaged in a classification study of our appraiser and  
21 auditor-appraiser series, and exploring the use of  
22 alternate classifications.

23           These activities and possible changes will  
24 require various reviews, analyses and approvals;  
25 therefore, we expect this to be a long-term project. We

1 are confident that these endeavors will serve the agency  
2 well in the future.

3 The next item is in regard to the agency's  
4 strategic goal regarding workforce development.

5 Over the last two-and-a-half years, we've  
6 expended tremendous efforts in creating and filling new  
7 positions for our administrative and legal  
8 infrastructure, bringing new property tax staff on  
9 board, and filling key supervisory and managerial  
10 positions.

11 Over the last few months, and for the  
12 foreseeable future, we will devote our efforts to the  
13 implementation of our workforce development and  
14 succession plan.

15 This plan includes an intentional focus on  
16 knowledge transfer through practical experience and  
17 mentorship to ensure our new staff and managers have the  
18 tools needed to successfully perform and grow in their  
19 roles as the next generation of property tax subject  
20 matter experts.

21 Members, this concludes my report on the  
22 agency's day-to-day operation priorities. If you have  
23 any questions, I'd be happy to answer them.

24 MS. COHEN: I don't have any questions.

25 Let me see if my colleagues have anything.

1 MR. GAINES: Yeah. I do, if I could.

2 MS. COHEN: Yes. Mr. Gaines.

3 MR. GAINES: Thank you, Ms. Renati.

4 Can you indicate where we stand in terms of  
5 new hires, and are there new retirements?

6 MS. RENATI: I don't have -- I know we have  
7 some retirements coming up. I don't have the exact  
8 number.

9 MR. GAINES: Okay.

10 MS. RENATI: As far as new recruits, we did  
11 not make any new -- did not have a new recruit.

12 MR. GAINES: Okay.

13 MS. RENATI: We had one person accept, and  
14 then decline the position. So it's a net zero.

15 MR. GAINES: Okay. All right. Thank you.

16 MR. SCHAEFER: I had a comment.

17 MS. COHEN: Please.

18 MR. SCHAEFER: Ms. Renati, when you have a  
19 retirement, you give us a resolution of the person's  
20 service, and the discussion is 100 percent BOE, of what  
21 he or she has done with the BOE.

22 I would like to, if the person has any  
23 humanistic experiences, like maybe a family, or maybe  
24 they played the violin, or went to UC Berkeley, or  
25 something like that, outside of their workday with us,



1 I'd like to see that added to the resolutions.

2 MS. RENATI: Thank you for the suggestion,  
3 Vice Chair.

4 MS. COHEN: All right. Seeing that there are  
5 no other questions, is there more to your presentation?

6 MS. CICHETTI: Yep.

7

8 **ITEM K1c**

9

10 MS. CICHETTI: The next item on the agenda is  
11 Other Administrative Matters, Executive Director's  
12 Reporter, K1c, Proposition 19 Implementation Project:  
13 Report on the status of the agency's Proposition 19  
14 Implementation Project.

15 This matter will be presented by Ms. Renati.

16 MS. RENATI: Again, Lisa Renati, Chief Deputy  
17 Director.

18 I will provide an update on our Prop. 19  
19 Implementation Project. A high-level implementation  
20 plan is attached to today's agenda.

21 I'm happy to report the status of the  
22 implementation of Prop. 19 is green, meaning no issues  
23 to report.

24 The BOE has a dedicated web page to Prop. 19,  
25 which can be accessed through our homepage. That web

1 page does include updated guidance, frequently asked  
2 questions, related legislation, and any other resources  
3 that we've come across to assist our taxpayers.

4 As of this October -- as of this past Monday,  
5 our Prop. 19 web page has received approximately 407,490  
6 unique external page views since we launched the page in  
7 November 2020. So two years, about 400 -- we can round  
8 up to 408,000. This includes an additional 9,093 unique  
9 page views since last Board Meeting.

10 This concludes my presentation on the topic.  
11 I'm available to answer any questions.

12 MS. COHEN: Any questions on this side?

13 Schaefer?

14 Gaines?

15 MR. SCHAEFER: No.

16 MS. COHEN: None?

17 Thank you.

18 MS. RENATI: Thank you.

19 MS. CICHETTI: I'm going to go out to the AT&T  
20 moderator on this. It concludes the Administrative  
21 Matters.

22 AT&T operator, could you please let us know if  
23 there's anyone on the line who would like to make a  
24 public comment regarding this item?

25 AT&T MODERATOR: Ladies and gentlemen, for

1 comment, please press one, zero at this time.

2 Again, please press one, zero for comment.

3 Madam Chair, we have no one in queue at this  
4 time.

5 MS. CICHETTI: Thank you.

6

7 **ITEM K2a**

8

9 MS. CICHETTI: The next item on the agenda is  
10 Other Administrative Matters, Taxpayers' Rights  
11 Advocate's Office Report; K2a, Operational Update:  
12 Update on the activities of the Taxpayers' Rights  
13 Advocate Office, including Proposition 19, education and  
14 outreach, and other matters.

15 This matter will be presented by Ms. Wing.

16 MS. WING: Good morning, Chair Cohen and  
17 Honorable Board Members.

18 I am Margie Wing, the Senior Specialist in the  
19 Taxpayers' Rights Advocate office.

20 I'm here to provide an update on the  
21 activities of the Taxpayers' Rights Advocate Office and  
22 Proposition 19 education and outreach to keep you  
23 informed.

24 Our agency's advocate, Lisa Thompson, extends  
25 her apologies for being unable to attend today, as she

1 is out of the office.

2 First, I would like to share with you some  
3 statistics on the number of taxpayer cases completed by  
4 the Taxpayers' Rights Advocate Office, and provide some  
5 insight on the types of cases it consisted of.

6 Attached to this month's Public Agenda Notice  
7 is a memorandum from our office to the Executive  
8 Director reporting the number of completed and resolved  
9 cases, itemized by Board Member District, further  
10 distinguished between the administrative versus the  
11 valuation categories, and by topic area within those  
12 categories.

13 In October 2022, we completed 27 cases; eight  
14 were in Board Member Gaines' District One; nine were in  
15 Board Member Cohen's District Two; three were in  
16 Board Member Vazquez' District Three, and seven were in  
17 Board Member Schaefer's District Four.

18 Of the 27 cases completed, eight were from the  
19 administrative category, and 19 were from the valuation  
20 category.

21 The administrative category includes topics  
22 such as creating and mailing tax bills, refunds, penalty  
23 cancellation, defaulted and delinquent taxes, access to  
24 data, specialist assessments or direct levees on the  
25 property tax bill.

1           The valuation category includes topics such as  
2 change in ownership, declines in value, appraisal  
3 methodology, exclusions, exemptions, new construction,  
4 actual enrollment of values, general property taxation  
5 and assessment appeals.

6           With respect to the administrative category  
7 and its eight cases in total, four pertained to  
8 delinquent or defaulted taxes, one pertained to filing a  
9 claim for refund, and three involved other concerns,  
10 such as pass-through expenses from a landlord to a  
11 tenant, and legal ownership.

12           With respect to the valuation category and its  
13 19 cases in total, five pertained to actual enrollment  
14 of values, one case concerned appraisal methodology, two  
15 cases pertained to assessment appeals, two cases  
16 involved change in ownership, five cases pertained to  
17 exclusions from reassessment, two involved exemptions,  
18 and two cases involved general property taxation.

19           To provide some additional insight on the  
20 specific type of exclusion exemption of cases, I offer  
21 this further breakdown.

22           For the five cases involving exclusions from  
23 reassessment, two pertained to the parent-child  
24 exclusion, three pertained to base year value transfers  
25 for persons aged 55 and older.

1           Of the two parent-child exclusion cases, one  
2 fell under prior law, Proposition 58, since the  
3 transfers occurred before the February 16, 2021  
4 effective date of Proposition 19, and one fell under the  
5 current laws of Proposition 19's intergenerational  
6 exclusion provisions.

7           With respect to the three cases pertaining to  
8 base year value transfers, one case was under the prior  
9 law of Proposition 60, as the transfer occurred before  
10 April 1, 2021, while the other two cases involved  
11 transfers that occurred under current laws of  
12 Proposition 19.

13           For the two exemption cases, one pertained to  
14 the Disabled Veterans' Exemption, and one pertained to  
15 Historical Aircraft Exemption.

16           To provide an additional insight on the nature  
17 of cases that our office works on to assist taxpayers, I  
18 offer an example of a case our office worked on in  
19 October to help the taxpayer resolve his concern.

20           This example case involved a taxpayer's  
21 request for a base year value transfer from one county  
22 to another county under Proposition 19.

23           The taxpayer contacted our office after the  
24 base year value transfer had been granted, because he  
25 was concerned that the new tax bill on his replacement

1 home indicated an assessed value greater than the  
2 assessed value on his original home in the year that he  
3 sold it.

4 The taxpayer thought it was an error, because  
5 the market value of his original property was greater  
6 than the market value of his replacement property. So  
7 there should not have been any excess value added to the  
8 transferred value.

9 Additionally, both transactions occurred  
10 within a month of each other. So there was no need to  
11 adjust the transferred value for the California Consumer  
12 Price Index, as our agency's guidelines and LTA 2022/009  
13 explains for interim periods when the replacement is  
14 purchased after the original property is sold.

15 And this is also clarified in our agency's  
16 Property Tax Rule 462.50 -- 540 subdivision (c)(3).

17 Our office reached out to the county  
18 assessor's office to obtain information on what the  
19 original property's factored base year value was prior  
20 to the sale, and its market value at the time of its  
21 sale that was reported to its office on Certification of  
22 Value, form BOE-19-C.

23 When a taxpayer applies for a base year value  
24 transfer in a county different from where the original  
25 property was located, the county assessor's office,

1 where the replacement property is located requests  
2 completion of BOE-19-C, Certification of Value, from the  
3 county assessor's office where the original property is  
4 located.

5 As you are aware, our agency prescribes forms  
6 for county assessors to use statewide. The  
7 certification of value form is one of those forms  
8 developed by our agency after the passage of  
9 Proposition 19.

10 The form provides key information needed to  
11 determine the replacement property's new taxable value.

12 Our office researched public information on  
13 the taxpayer's original property for its original  
14 purchase date and purchase price, its base year value,  
15 and calculated the factored base year value up to the  
16 date that the taxpayer sold it. So 19 years later.

17 We confirmed that it was consistent with the  
18 property's factored base year value reported by the  
19 assessor on the Certification of Value form.

20 We explained to the taxpayer that the assessed  
21 value on its original property at the time of the sale  
22 was actually not the factored base year value. Instead,  
23 the property was assessed under a decline in value  
24 status, also known as a Prop. 8 value, where the market  
25 value of the property is less than its factored base



1 year value.

2 We helped the taxpayer understand that the  
3 assessor was following the law by transferring the  
4 factored base year value of the original property and  
5 enrolling that value, rather than the Prop. 8 assessed  
6 value that was identified on the assessor's most recent  
7 property tax bill for the original property.

8 In this case, the factored base year value was  
9 approximately 40,000 higher than its Prop. 8 value. And  
10 we provided support that the law specified it is the  
11 factored base year value that is transferred, with  
12 resources to Revenue and Taxation Code Section 69.6, LTA  
13 2022/009, and Property Tax Rule 462.540.

14 Since the purchase price of the replacement  
15 home is substantially higher than their transferred  
16 factor base year value, the taxpayer still benefitted  
17 from the base year value transfer for persons aged 55  
18 and over under Proposition 19.

19 Additionally, for this taxpayer, we assisted  
20 him with the Disabled Veterans' Exemption by  
21 coordinating with the assessor's office on expediting  
22 the processing of his claim, so that it can be reflected  
23 on his property tax bill before the deadline to pay the  
24 first installment for fiscal year 2022-23.

25 The next item I would like to report on to

1 keep the Members informed is our work associated with  
2 Proposition 19, education and outreach for taxpayers.

3 As reported in last month's meeting, our  
4 office completed its work on eight information sheets to  
5 help taxpayers understand property tax laws and  
6 exclusions available to them.

7 Specifically, these information sheets  
8 targeted the provisions for base year value transfers  
9 for seniors and disabled persons, and for parent-child  
10 and grandparent-child exclusions.

11 That completed our update to four information  
12 sheets that we published from July 2018 and June 2020 to  
13 reflect the changes due to passage of Proposition 19,  
14 and the development of our four new information sheets  
15 published earlier this year from June to August to  
16 reflect the new laws of Proposition 19.

17 The information sheets are under the  
18 Publication 800 Series, and are available from the BOE's  
19 main website and on the TRA web page.

20 To announce the availability of the  
21 information sheets on the agency's website, Letter To  
22 Assessor's No. 2022/051 was released on October 28th,  
23 2022, which included copies of the eight information  
24 sheets.

25 Assessors will be able to direct taxpayers to

1 the LTA -- or the TRA website in their efforts to  
2 provide education to taxpayers regarding base year value  
3 transfers and intergenerational transfer exclusion.

4 Lastly, we are pleased to announce that the  
5 information sheets for the parent-child and  
6 grandparent-child exclusions under the current laws of  
7 Proposition 19, as well as the prior law under  
8 Proposition 58, are now available in Spanish on our  
9 agency's website. They were posted just last week.

10 The information sheets can be accessed through  
11 our agency's main publications web page and our TRA's  
12 web page.

13 The Communications Officer, Peter Kim, will be  
14 promoting them on social media shortly.

15 At future Board Meetings, the TRA office will  
16 provide further updates on the activities of the TRA  
17 office to keep you informed.

18 That concludes my update.

19 Thank you.

20 MS. COHEN: Thank you.

21 Colleagues, any questions?

22 Mr. Vazquez.

23 MR. VAZQUEZ: Ms. Wing, first of all, thank  
24 you for that in-depth report.

25 And just wanted to congratulate you and

1 Mr. Moon and your staff, or, actually, I guess it was  
2 Mr. Kim, Peter Kim, for finally putting this thing in  
3 Spanish as well.

4 MS. WING: Right.

5 MR. VAZQUEZ: Appreciate it.

6 MS. WING: Thank you.

7 MR. GAINES: Question, if I could.

8 MS. COHEN: Yes. Mr. Gaines.

9 MR. GAINES: Yes.

10 Just -- you referenced there was a refund. Do  
11 you have any detail on that?

12 MS. WING: I'm sorry, refund?

13 MR. GAINES: Yeah. One of the administrative  
14 cases indicates a refund.

15 MS. WING: Oh.

16 MR. GAINES: And I'm just curious as to  
17 what -- what would be the nature of a refund?

18 MS. WING: I'm sorry, I don't have the  
19 specific details here with me.

20 MR. GAINES: Okay.

21 MS. WING: But we can get back to you.

22 MR. GAINES: Yeah, if you could. Just general  
23 terms. I'm not looking for any -- I just wanted the  
24 nature of what a refund would be.

25 MS. WING: Okay.

1           MR. GAINES:  And what would -- yeah.  And what  
2 would spur that inquiry.

3           MS. WING:  We will get back to you on that.

4           MR. GAINES:  Great.  Thank you.

5           MS. WING:  You're welcome.

6           MS. COHEN:  That's it.  Thank you.

7           MS. WING:  Thank you.

8           MS. CICHETTI:  We normally had scheduled on  
9 the agenda to break for lunch at this time.

10           You know what, before we go forward, I forgot  
11 to go to the moderator.

12           MS. COHEN:  Right.

13           MS. CICHETTI:  Let me do that first.

14           AT&T moderator, could you let us know if  
15 there's anyone on the line who would like to make a  
16 public comment regarding this item?

17           AT&T MODERATOR:  Ladies and gentlemen, to make  
18 public comment, please press one, zero at this time.

19           Once again, for comment, please press one,  
20 zero.

21           And we have no callers in queue.

22           MS. CICHETTI:  Thank you.

23           MS. COHEN:  Could we go to Item K?

24           MS. CICHETTI:  We can, yes.

25           MS. COHEN:  Thank you.

1 ITEM K4a

2

3 MS. CICHETTI: We're going to move to item

4 K4a, Property Tax Deputy Director's Report,

5 Operational Updates: Report on the status of pending and

6 upcoming projects, activities, and departmental issues,

7 including Prop. 19 Implementation Actions and Guidance,

8 Letters to Assessors, Appraisal Training and

9 Certification, and State-Assessed Properties.

10 This item will be presented by Mr. Yeung and

11 his team.

12 MR. YEUNG: Thank you.

13 Good morning, Chair Cohen and Honorable

14 Members of the Board.

15 My name is David Yeung, for the record. I'm

16 the Deputy Director of the Property Tax Department.

17 And with me today, I have Ms. Glenna Schultz.

18 And she will be presenting part of the updates.

19 And Mr. McCool, which is not quite here yet.

20 So we will go ahead and move forward.

21 So first for you I have an update on the

22 implementation of Prop. 19. With the Board's earlier

23 action in the Agenda Item C, it represents our winding

24 down the rulemaking process.

25 So far we have done three rounds of

1 rulemaking: The initial rules, emergency rules, and  
2 this is to make the emergency rules permanent.

3 So with that, our implementation part of  
4 Prop. 19 is starting to wind down. Staff is shifting  
5 focus to more of the daily operational needs of  
6 Prop. 19.

7 We're continuing, of course, answering  
8 inquiries from stakeholders, taxpayers and assessors.

9 We are also -- we are also focussing on our  
10 administrative role, as in our clearinghouse functions.  
11 We do have a clearinghouse function for the base year  
12 transfers, that we keep track of a three-time limit for  
13 each one of those base year transfers.

14 And we're also doing -- we're continuing our  
15 own internal processes of educating and updating our  
16 staff. And so we -- of course we continue looking at  
17 our existing guidance, and monitoring the need for  
18 additional guidance as it comes up with the assessors or  
19 with the stakeholders.

20 So our -- we're doing a slow transition out of  
21 the implementation and more into the daily  
22 administration of Prop. 19. It is consistent with our  
23 plan. We had projected our implementation process to  
24 basically start winding down by the end of this year.  
25 So we are on target.

1           So thank you. That concludes my presentation  
2 for Prop. 19 updates. I'm available for any questions  
3 you may have.

4           MS. COHEN: Let's see. Questions?

5           MR. YEUNG: No? Okay.

6           MS. COHEN: Thank you.

7           MR. YEUNG: Thank you very much.

8           And without questions, I will turn over to  
9 Ms. Glenna Schultz for the next presentations on Letters  
10 to Assessor.

11          MS. COHEN: Thank you.

12          MS. SCHULTZ: Good morning, Chair Cohen and  
13 Honorable Board Members.

14          I'm Glenna Schultz, Principal Property  
15 Appraiser in the County-Assessed Properties Division.

16          Today I will provide you with a brief report  
17 on Letters to Assessors.

18          Attached to the agenda this month is a memo on  
19 Letters to Assessors, which provides a list of the LTAs  
20 that have been issued since our last Board Meeting.

21          In addition, it provides a link to the Board's  
22 website, where a list of all LTAs can be found that have  
23 been issued to date.

24          As of the date of the attached memo, the Board  
25 staff have issued a total of 51 LTAs for calendar year



1 2022, and four of those LTAs have been issued since our  
2 last Board Meeting.

3 Those four LTAs are summarized as follows:

4 An LTA to issue an assessment practices survey  
5 report for Napa County, an LTA on 2022 property tax  
6 legislation, an LTA that announces the 2023 calendar for  
7 the valuation of public utilities and railroads, and as  
8 Ms. Wing just finished discussing, an LTA that announced  
9 updated information sheets on Proposition 19, our  
10 Taxpayers' Rights Advocate Office.

11 This concludes my report on Letters to  
12 Assessors. I'm available to answer any questions you  
13 may have.

14 MS. COHEN: Mr. Vazquez has a question.

15 MR. VAZQUEZ: First, before I forget, thank  
16 you, Mr. Yeung, for your efforts, and basically your  
17 staff. I know they worked really hard on Prop. 19, and  
18 they really rose to the occasion, given the confusions  
19 we still have.

20 And, I mean, it's a shame to hear, for all  
21 this, it's still not going to really meet the goal in  
22 terms of the finance part.

23 But, Ms. Schultz, thank you for your work as  
24 well. Especially with your department on the Taxpayers'  
25 Rights Advocates with the LTAs, the information that

1 you've worked on, especially the information sheets, I  
2 think, are invaluable. We've been -- I've been passing  
3 them out and using it within my district. Really wanted  
4 to thank you for that, and your staff.

5 MS. SCHULTZ: You're welcome.

6 MS. COHEN: Okay. Anyone else?

7 MS. SCHULTZ: I will now provide a brief  
8 report on the Board's Appraisal Training and  
9 Certification Program.

10 Since our last Board Meeting, we have taught  
11 five more classes of our most-requested courses. So  
12 far, during calendar year 2022, we have taught  
13 20 classes, and trained a total of 513 students.

14 During 22-23 we have scheduled 33 classes,  
15 both in person and virtual. In addition to these  
16 classes, we plan on hosting two three-hour workshops,  
17 one on mineral property, and one on taxable possessory  
18 interests.

19 These workshops will be hosted via Teams, and  
20 should be able to accommodate several hundred students.

21 We will also continue to offer existing online  
22 training courses available through American River  
23 College and California State University, Sacramento, as  
24 well as our online courses available on the BOE's  
25 website, plus our self-study training sessions, also

1 available on the BOE's website.

2 With this combination of different types of  
3 teaching formats being offered, and utilizing more staff  
4 from other sources, we anticipate being able to far  
5 surpass the number of courses offered and the number of  
6 students taught in recent years.

7 This concludes my report on training and  
8 certification. I'm available to answer any questions  
9 you may have.

10 MS. COHEN: Thank you.

11 Let's see.

12 Mr. Vazquez.

13 MR. VAZQUEZ: Once again, thank you,  
14 Ms. Schultz.

15 But I was just wondering on this -- the  
16 capacity, especially since we're doing some of these  
17 classes online. And I know, for example, the two  
18 three-hour workshops can accommodate like 100 students.  
19 And I was just wondering, is there a limit when you're  
20 doing it through Teams?

21 Or is it just an issue of maybe the instructor  
22 finds it overwhelming when they're doing more than that?

23 MS. SCHULTZ: We do have a limit. We do the  
24 courses during Teams, so that the instructor can -- is  
25 able to answer the student's questions, and deal with

1 the students better.

2 MR. VAZQUEZ: Yeah. So I imagine that's a  
3 challenge. Because I know, in speaking to some of the  
4 assessors when I left the conference a few days ago  
5 here, they were expressing their concerns, and, you  
6 know, their frustration that they're -- they just need  
7 more of this.

8 And I think doing it online obviously helps, I  
9 think, a little bit. But, one, I guess it makes it  
10 easier for them to participate. But I was just  
11 wondering if there was a way to maximize it as possible,  
12 but at the same time, I know the issue becomes, you  
13 know, how do you do justice to all the students.

14 MR. YEUNG: No, you're absolutely correct.

15 We have -- there's a -- there is a little bit  
16 of a distinction between some of our classes themselves  
17 and our webinar, our workshops. Our webinar and  
18 workshops are more of an informational meeting where we  
19 give them a lot of information, the opportunity for a  
20 whole lot of dialogue and questions, and answering  
21 questions. It's a little bit smaller.

22 When we have a class, there's a lot of  
23 engagement with the students and the person and the  
24 instructor. So that one on one, that type of learning  
25 where it's very active by its very nature, kind of sets

1 a little bit of a limit on how many people can be in  
2 there.

3 So while you can give a webinar to many  
4 people, in this case we're hoping to be several hundred,  
5 it's less of a two-way learning opportunity. The  
6 classrooms are really our two-way learning type venues.  
7 So there's a little bit of a limit.

8 And we're finding, at least for us in the  
9 subject matter we teach, somewhere around the mid 30s,  
10 35 to 40, is probably our upper end where that  
11 interactive learning starts to fall off a little bit.

12 MR. VAZQUEZ: I know that's a challenge when  
13 you're -- especially I know as a former teacher, when  
14 you're trying to create the dialogue --

15 MR. YEUNG: Yeah. Absolutely.

16 MR. VAZQUEZ: -- you don't want the, in this  
17 case they call it the subject, the student, to be just  
18 sitting there and just you're kind of dumping all this  
19 information on them.

20 MR. YEUNG: Yeah. Yeah.

21 MR. VAZQUEZ: Kind of like the banking theory  
22 they used to say, right?

23 MR. YEUNG: Exactly.

24 MR. VAZQUEZ: At the end of the day, I know  
25 that's -- it's a tough one.

1 MR. YEUNG: Yeah.

2 MR. VAZQUEZ: But I appreciate all the work  
3 you're doing on that.

4 MR. YEUNG: Of course.

5 MR. GAINES: Yeah, if I could.

6 MS. COHEN: Mr. -- go ahead.

7 MR. GAINES: So just -- are we -- sounds like  
8 we're able to meet the demand, though?

9 MS. SCHULTZ: I believe we are at this point.

10 MR. GAINES: Yeah.

11 MS. SCHULTZ: Because our -- while our virtual  
12 classes are full, the in-person classes have not been  
13 filled to capacity.

14 MR. GAINES: Yeah. Okay. All right.

15 Well, keep up the good work.

16 Thank you.

17 MS. SCHULTZ: Thank you.

18 MS. COHEN: All right. Thank you.

19 MR. YEUNG: If nothing else, Mr. McCool is up  
20 next for the State-Assessed Properties Division.

21 MR. McCOOL: Thank you.

22 Good morning, Chair Cohen and Honorable  
23 Members.

24 My name is Jack McCool, Chief of the  
25 State-Assessed Properties Division.

1           Today I will be providing information on the  
2 status of upcoming work in our division.

3           SAPD staff continue to work diligently on  
4 state-assessed appeals. Later today, the Board is set  
5 to act on five petitions.

6           Additionally, the final round of appeals  
7 conferences took place last week, and staff are  
8 currently working to review material that was requested  
9 as a result of those conferences.

10           The final group of petitions will be presented  
11 before the Board at the December Board Meeting.

12           SAPD staff are also currently preparing the  
13 annual newsletter mailed to each state assessee.

14           This newsletter provides key information  
15 regarding how to file annual property statements,  
16 provides key dates and deadlines, and also provides a  
17 detailed listing of key staff to contact for specific  
18 topic areas.

19           In addition to being mailed to each state  
20 assessee, under -- the annual newsletter is also posted  
21 to our website.

22           Our staff are also busy updating the annual  
23 property statement forms and instructions. This  
24 involves collaboration with the Forms and Publications  
25 Unit at CDTFA.

1           The final electronic version of the forms and  
2 instructions will be placed on our website and will be  
3 made ADA accessible.

4           Each assessee will be mailed a hard copy of  
5 their applicable forms and instructions in late  
6 December, with the forms being due next March 1st.

7           That concludes my report, and I'm available to  
8 answer any questions.

9           Thank you.

10          MS. COHEN: Comments?

11          Mr. Vazquez.

12          MR. VAZQUEZ: Just a quick one.

13          I know we're trying to get to that point where  
14 we're 100 percent paperless. And I know it's a little  
15 bit tough. And this also came up with some of the  
16 assessors.

17          And I was just wondering, as we're doing more  
18 of this, and we're promoting it, what we can do to kind  
19 of push that forward.

20          Because even -- I know I did run across one  
21 assessor that I guess is still kind of the old school,  
22 where he wasn't real excited about pushing paperless.  
23 Because they still want that tangible piece. And I know  
24 we can't enforce that, but obviously we can encourage  
25 it.



1 MR. McCOOL: Sure.

2 MR. VAZQUEZ: And I'm just wondering, perhaps,  
3 as we move forward, is there some way that we can  
4 possibly, I guess make it more inviting and less  
5 threatening for some of the these folks that we have  
6 that are -- you know, it's tough to move them from the  
7 whole modernization piece, right? I get that piece.

8 MR. McCOOL: Yeah. And that's why we provide  
9 both options.

10 So I would -- I don't have specific  
11 percentages, but I will say the number of assesseees that  
12 will file the electronic versions of the forms with us  
13 increases every year.

14 But we do provide the hard copy version for  
15 those that continue to want to file with the hard  
16 copies.

17 You know, there's conversations on modernizing  
18 our technology on a longer term. And it would be our  
19 hope to incorporate further electronic options for those  
20 that wish to take advantage of those.

21 MR. VAZQUEZ: Yeah. I was just wondering what  
22 we can do to kind of put aside some of those fears that  
23 some of these older folks have.

24 MR. McCOOL: Sure.

25 MR. VAZQUEZ: And I'm one of them.

1           You know, still it's a challenge, as things  
2 become more and more modernized, and technology is  
3 taking over. It's a challenge.

4           All right. Thanks.

5           MR. McCOOL: You're welcome.

6           MS. COHEN: All right. Anyone down on this  
7 end.

8           No? No?

9           Okay.

10          Thanks, Mr. McCool.

11          MR. McCOOL: Thank you.

12          MR. YEUNG: Thank you.

13          That concludes our presentation.

14          MS. CICHETTI: Let's go to the AT&T moderator.

15          AT&T moderator, is there anyone on the line  
16 who would like to make a public comment regarding this  
17 matter at this time?

18          AT&T MODERATOR: Ladies and gentlemen, to make  
19 a public comment on this matter, please press one, then  
20 zero.

21          Once again, for comments, please press one,  
22 zero, please.

23          And we have no callers queueing up for  
24 comment.

25          MS. CICHETTI: Thank you.

1 MS. COHEN: Thank you.

2 We will take up the legislative matter after  
3 lunch. We're going to break for lunch.

4 Thank you so much.

5 We will be back. We will reconvene in one  
6 hour at 1:00 p.m.

7 Thank you.

8 (Whereupon the lunch break was taken.)

9 MS. COHEN: Good afternoon, ladies and  
10 gentlemen. It's 1:13. We are going to reconvene our  
11 Board of Equalization Meeting.

12 Ms. Cichetti, could you please call the --  
13 please call the roll, and then just acknowledge that we  
14 have our -- our house has changed.

15 MS. CICHETTI: Yes. It would be wonderful to  
16 call the roll again.

17 Chair Cohen.

18 MS. COHEN: Present.

19 MS. CICHETTI: Vice Chair Schaefer.

20 MR. SCHAEFER: Present.

21 MS. CICHETTI: Member Gaines.

22 MR. GAINES: Present.

23 MS. CICHETTI: Member Vazquez.

24 MR. VAZQUEZ: Present.

25 MS. CICHETTI: Controller Yee.

1 MS. YEE: Here.

2 MS. COHEN: Thank you. Appreciate that.

3 Okay. Please call the item.

4 MS. CICHETTI: I need to make an announcement  
5 before we start this afternoon.

6 We are having issues with our  
7 closed-captioner. They will be on in a few minutes.  
8 But we ask anyone who needs that service to please use  
9 the Youtube service on the live stream for a period of  
10 time.

11 You'll see the closed-captioner service that  
12 we provide will come up momentarily.

13 Just wanted to make sure that.

14

15 **ITEM D**

16

17 MS. CICHETTI: The first item this afternoon  
18 is D, Tax Program Nonappearance Matters - Consent; D2,  
19 Property Tax Matters.

20 Contribution Disclosure forms are not required  
21 pursuant to Government Code 15626.

22 The first item on the agenda is Petition for  
23 Reassessment of Unitary Value: A) Phillips 66 Pipeline,  
24 LLC (0480), SAU22-007.

25 This is a constitutional function.

1 Contribution Disclosure forms are not required pursuant  
2 to Government Code Section 15626.

3 This matter will be presented by Mr. McCool.

4 MR. McCOOL: Thank you.

5 Good afternoon, Chair Cohen and Honorable  
6 Members of the Board.

7 My name is Jack McCool, Chief of the  
8 State-Assessed Properties Division.

9 Before you today for your consideration and  
10 adoption is one petition for reassessment of unitary  
11 value.

12 In this matter, SAPD staff and representatives  
13 for the petitioner were able to work collaboratively to  
14 resolve the issue raised in the petition.

15 The petitioner was cooperative during the  
16 process, and provided staff with additional information  
17 and data that was requested.

18 As a result, SAPD staff and the petitioner are  
19 in agreement on the recommendation before you. And I  
20 ask for your adoption.

21 Thank you.

22 MS. COHEN: Thank you.

23 Colleagues, any questions or comments for  
24 Mr. McCool?

25 Anyone? No?

Okay. Thank you.

MR. McCOOL: Thank you.

MS. CICHETTI: Motion?

MS. COHEN: Yes. I'll make a motion.

MR. SCHAEFER: I'll second.

MS. COHEN: Thank you so much. I appreciate  
that.

MS. CICHETTI: I guess, what is the motion?

MR. VAZQUEZ: Adoption.

MS. COHEN: Yes. I'll make a motion to adopt.

But before we do that, do we need to take  
public comment, Ms. Cichetti?

MS. CICHETTI: Yes, we can.

MS. COHEN: Okay.

MS. CICHETTI: AT&T moderator, is there anyone  
on the line who'd like to make a public comment  
regarding this item?

AT&T MODERATOR: If you would like to make a  
public comment, you may press one, zero at this time.

And at this time, there's no one in queue.

MS. CICHETTI: Thank you.

MS. COHEN: All right. So motion to accept,  
second by Mr. Schaefer.

Let's call the roll.

MS. CICHETTI: Call the roll.

1 Chair Cohen.  
2 MS. COHEN: Aye.  
3 MS. CICHETTI: Vice Chair Schaefer.  
4 MR. SCHAEFER: Aye.  
5 MS. CICHETTI: Member Gaines.  
6 MR. GAINES: Aye.  
7 MS. CICHETTI: Member Vazquez.  
8 MR. VAZQUEZ: Aye.  
9 MS. CICHETTI: Controller Yee.  
10 MS. YEE: Aye.  
11 MR. McCOOL: Thank you.  
12 MS. CICHETTI: The motion passes.  
13 MS. COHEN: Thank you.  
14 Thank you, Mr. McCool.  
15 MR. McCOOL: Thank you.

16  
17 **ITEM E3**  
18

19 MS. CICHETTI: The next item on the agenda is  
20 E, Tax Program Nonappearance Matters - Adjudicatory; E3,  
21 Legal Appeals Property Tax Matters.

22 There are four items. Petition for  
23 reassessment of unitary value.

24 I'm going to read all of them, but we're going  
25 to take each of the adjudicatory items up separately.

1           Central Valley Gas Storage (0104), Wild Goose  
2 Storage, LLC (0195), Lodi Gas Storage, LLC (0198), and  
3 Gill Ranch Storage (0121).

4           Contribution Disclosure forms are required  
5 pursuant to Government Code Section 15626. Board  
6 Proceedings has received Contribution Disclosure forms  
7 from the parties, agents and participants.

8           Of the Contribution Disclosure forms filed in  
9 this matter, no disqualifying contributions were  
10 disclosed. All parties, agents and participants are on  
11 the memorandum provided to your office.

12           This is a constitutional function.

13           These matters will be presented by Ms. Yim,  
14 who will be presenting remotely.

15           MS. COHEN: Hello, Ms. Yim.

16           MS. YIM: Hello. Good afternoon, Chair Cohen  
17 and Honorable Members of the Board.

18           My name is Sonia Yim, the Appeals Attorney for  
19 the State Board of Equalization.

20           And I serve as a neutral factfinder on behalf  
21 of the Board in the cases before you.

22           Before I dive into the first petition, I'd  
23 like to give you a general overview of the four cases  
24 before you today.

25           All four petitioners own gas storage



1 facilities in California. And for each petition, I have  
2 submitted a summary decision for your consideration.

3 In all four of these cases, the parties are in  
4 agreement. The parties have also waived their  
5 appearances before the Board, and they're requesting  
6 that the Board decide the petitions on the basis of the  
7 written record.

8 Because the parties reached agreement after  
9 the appeals conferences occurred, the rules do not allow  
10 the item to appear on the consent calendar, and must be  
11 adjudicated.

12 So with that, I'll proceed with the first  
13 petitioner on the agenda, as Ms. Cichetti has called,  
14 which is Central Valley Gas Storage.

15 Petitioner is a natural gas storage facility  
16 located in Northern California.

17 Petitioner has raised four primary issues  
18 within their 2022 Board-adopted unitary value.

19 One, whether the income shortfall analysis  
20 recognizes an appropriate level of economic obsolescence  
21 in determining the reproduction cost less depreciation,  
22 or cost approach value indicator, whether -- two,  
23 whether respondent failed to account for the appropriate  
24 level of economic obsolescence in determining the value  
25 of petitioner's Pad Gas in the cost approach; three,

1 whether the four years of prior revenues and expenses  
2 submitted in the petition is more reliable than a  
3 three-year average used in the 2022 Board-adopted value  
4 to calculate the CEA or income value indicator; and,  
5 four, whether respondent incorrectly reconciled the  
6 value indicators by placing 50 percent reliance each on  
7 the cost of income value indicators.

8 Based on the written record, and as reflected  
9 in greater detail within my summary decisions submitted  
10 in this case, I'm recommending that the Board partially  
11 grant this petition as to issue two, and deny the  
12 petition as to all other issues.

13 As noted, both SAPD and petitioner have  
14 expressed that they're in agreement with this  
15 recommendation.

16 I ask for the Board's adoption of my  
17 recommendation.

18 MS. COHEN: Thank you very much.

19 Colleagues, do we have any questions?

20 No? Okay.

21 MR. GAINES: Motion to approve.

22 MS. COHEN: Mr. Gaines has made a motion to  
23 adopt.

24 MR. GAINES: Or adopt.

25 MS. COHEN: Is there a second?

1           Mr. Schaefer has seconded that motion.

2           MS. CICHETTI: I'm going to go out to the AT&T  
3 moderator.

4           AT&T moderator, can you please tell us if  
5 there's anyone on the line who would like to make a  
6 public comment regarding this item?

7           AT&T MODERATOR: If you would like to make a  
8 public comment, you may press one, then zero.

9           And we have no one in queue.

10          MS. COHEN: Thank you.

11          MS. CICHETTI: Thank you.

12          Member Gaines made a motion to adopt staff  
13 recommendation, with Mr. Schaefer seconding.

14          I'll call the roll.

15          Chair Cohen.

16          MS. COHEN: Aye.

17          MS. CICHETTI: Vice Chair Schaefer.

18          MR. SCHAEFER: Aye.

19          MS. CICHETTI: Member Gaines.

20          MR. GAINES: Aye.

21          MS. CICHETTI: Member Vazquez.

22          MR. VAZQUEZ: Aye.

23          MS. CICHETTI: Controller Yee.

24          MS. YEE: Aye.

25          MS. CICHETTI: Motion passes.

1 ITEM E3c

2  
3 MS. CICHETTI: The next item is E3(c), Wild  
4 Goose Storage, LLC.

5 MS. YIM: Thank you, Ms. Cichetti.

6 Chair Cohen and Honorable Members of the  
7 Board, we'll now move onto our next petition, Wild Goose  
8 Storage.

9 Petitioner is a natural gas storage facility  
10 located in Northern California.

11 Petitioner has raised three primary issues  
12 within their 2022 Board-adopted unitary value.

13 One, whether respondent failed to account for  
14 the appropriate level of economic obsolescence in  
15 determining the value of petitioner's Pad Gas in the  
16 cost approach; two, whether SAPD incorrectly excluded  
17 lease expenses in its income shortfall study; and,  
18 three, whether respondent incorrectly reconciled the  
19 value indicators by placing 50 percent reliance each on  
20 the cost to income value indicators.

21 Based on the written record, and as reflected  
22 in greater detail within my summary decision submitted  
23 in this case, I'm recommending that the Board partially  
24 grant this petition as to issue one, and deny the  
25 petition as to all other issues.

1           As noted, both SAPD and the petitioner have  
2 expressed that they're in agreement with this  
3 recommendation.

4           I ask for the Board's adoption of my  
5 recommendation.

6           MS. COHEN: Thank you.

7           Let's see if there's any discussions,  
8 questions.

9           No?

10          All right. Is there a motion to adopt the  
11 Appeals Attorney summary decision?

12          MR. SCHAEFER: So moved.

13          MS. COHEN: All right. I'll make that motion,  
14 second by Mr. Schaefer.

15          This is a motion to adopt the summary  
16 decision.

17          MS. CICHETTI: Let's go out to the AT&T  
18 moderator.

19          AT&T moderator, is there anyone on the line  
20 who would like to make a public comment regarding this  
21 matter?

22          AT&T MODERATOR: If you would like to make a  
23 public comment, you may press one, then zero at this  
24 time.

25          At this time, there's no one in queue.

1 MS. CICHETTI: Member Cohen has made a motion  
2 to adopt staff recommendation, with Member Schaefer  
3 seconding.

4 I'm going to take the roll.

5 Chair Cohen.

6 MS. COHEN: Aye.

7 MS. CICHETTI: Vice Chair Schaefer.

8 MR. SCHAEFER: Aye.

9 MS. CICHETTI: Member Gaines.

10 MR. GAINES: Aye.

11 MS. CICHETTI: Member Vazquez.

12 MR. VAZQUEZ: Aye.

13 MS. CICHETTI: Controller Yee.

14 MS. YEE: Aye.

15 The motion passes.

16 MS. COHEN: Thank you.

17

18 **ITEM E3d**

19

20 MS. CICHETTI: The next item is E3d, Lodi Gas  
21 Storage, LLC (0198).

22 MS COHEN: All right.

23 MS. YIM: Thank you, Ms. Cichetti.

24 MS. COHEN: Continue.

25 MS. YIM: Sure.

1           Thank you, Chair Cohen and Honorable Members  
2 of the Board. We'll now move onto our next petition,  
3 Lodi Gas Storage.

4           Petitioner is a natural gas storage facility  
5 located in Northern California. Petitioner has raised  
6 two primary issues within their 2022 Board-adopted  
7 unitary value.

8           One, whether respondent failed to account for  
9 the appropriate level of economic obsolescence in  
10 determining the value of petitioner's Pad Gas in the  
11 cost approach; and, two, whether respondent incorrectly  
12 reconciled the value indicators by placing 50 percent  
13 reliance each on the cost to income value indicators.

14           Based on the written record, and as reflected  
15 in greater detail within my summary decision submitted  
16 in this case, I'm recommending that the Board partially  
17 grant this petition as to issue one, and deny the  
18 petition as to the other issue.

19           As noted, both SAPD and the petitioner have  
20 expressed they're in agreement with this recommendation.

21           I ask for the Board's adoption of my  
22 recommendation.

23           MS. COHEN: All right. Let's see if there's  
24 any questions.

25           None? None?

1 All right. Thank you.

2 I'll make a motion to adopt.

3 MR. SCHAEFER: Second.

4 MS. COHEN: Second by Mr. Schaefer.

5 MS. CICHETTI: AT&T moderator, please let us  
6 know if there's anyone on the line who would like to  
7 make a public comment regarding this matter.

8 AT&T MODERATOR: If you would like to make a  
9 public comment, you may press one, then zero at this  
10 time.

11 And we have no one in queue.

12 MS. CICHETTI: Member Cohen has made a motion  
13 to adopt staff recommendation, with Member Schaefer  
14 seconding.

15 I'm going to take roll.

16 Chair Cohen.

17 MS. COHEN: Aye.

18 MS. CICHETTI: Vice Chair Schaefer.

19 MR. SCHAEFER: Aye.

20 MS. CICHETTI: Member Gaines.

21 MR. GAINES: Aye.

22 MS. CICHETTI: Member Vazquez.

23 MR. VAZQUEZ: Aye.

24 MS. CICHETTI: Controller Yee.

25 MS. YEE: Aye.



1 MS. CICHETTI: The motion passes.

2 MS. COHEN: Thank you.

3

4 **ITEM E3e**

5

6 MS. CICHETTI: The final petition is Gill  
7 Ranch Storage, LLC (0121).

8 MS. YIM: Thank you, Ms. Cichetti.

9 Chair Cohen and Honorable Members of the  
10 Board, we'll now move onto our final petition, Gill  
11 Ranch Storage.

12 Petitioner is a natural gas storage facility  
13 located in Fresno, California.

14 Petitioner has raised four primary issues  
15 within their 2022 Board-adopted unitary value.

16 One, whether respondent failed to account for  
17 the appropriate level of economic obsolescence in  
18 determining the value of petitioner's Pad Gas in the  
19 cost approach; two, whether respondent incorrectly  
20 failed to apply an income shortfall obsolescence factor  
21 to the cost approach value indicator; three, whether  
22 respondent must adjust petitioner's 2022 income or CEA  
23 value indicator based on an updated five-year income  
24 forecast submitted during the 2022 appeal; and, four,  
25 whether respondent incorrectly reconciled the value

1 indicators by placing 50 percent reliance each on the  
2 cost to income value indicators.

3 Based on the written record, and as reflected  
4 in greater detail within my summary decisions submitted  
5 in this case, I'm recommending that the Board partially  
6 grant this petition as to issue three, and deny the  
7 petition as to all other issues.

8 As noted, both SAPD and the petitioner have  
9 expressed that they're in agreement with this  
10 recommendation.

11 I ask for the Board's adoption of my  
12 recommendation.

13 MS. COHEN: All right.

14 Any discussion, colleagues? Questions?  
15 Clarifications?

16 Thank you for the presentation.

17 I'll make a motion to adopt the summary  
18 decision.

19 MR. SCHAEFER: I second.

20 MS. COHEN: Seconded by Mr. Schaefer.

21 MS. CICHETTI: We're gonna out to the AT&T  
22 moderator to see if there's anyone on the line who would  
23 like to make a public comment regarding this item.

24 AT&T MODERATOR: If you would like to make a  
25 public comment, you may press one, then zero at this

1 time.

2 And we have no one in queue.

3 MS. COHEN: Thank you.

4 MS. CICHETTI: Thank you.

5 Member Cohen has made a motion to adopt staff  
6 recommendation, with Member Schaefer seconding.

7 I'm going to take roll.

8 Chair Cohen.

9 MS. COHEN: Aye.

10 MS. CICHETTI: Vice Chair Schaefer.

11 MR. SCHAEFER: Aye.

12 MS. CICHETTI: Member Gaines.

13 MR. GAINES: Aye.

14 MS. CICHETTI: Member Vazquez.

15 MR. VAZQUEZ: Aye.

16 MS. CICHETTI: Controller Yee.

17 MS. YEE: Aye.

18 MS. CICHETTI: Motion passes.

19 MS. COHEN: Thank you very much.

20 Please call the next item.

21

22 **ITEM K5a**

23

24 MS. CICHETTI: The next item on the agenda is  
25 Legislative, Research and Statistics Division Chief's

1 Report; K5a, Agency's 2023 Legislative Proposals.

2 The Board will consider suggested proposals  
3 from the Legislative, Research and Statistics Division  
4 for legislation to be sponsored by the Board of  
5 Equalization in the first year of the 2023-24  
6 Legislative Session.

7 The 2023 Legislative Proposal: Alcoholic  
8 Beverage Tax. K5a(1), Amend Section 32387 of the  
9 Revenue and Taxation Code. Amend to authorize  
10 electronic service of levies under the Alcoholic  
11 Beverage Tax program.

12 This item will be presented by Mr. Weatherby.

13 MR. WEATHERBY: So good afternoon, Chair  
14 Cohen, Vice Chair Schaefer, and Honorable Members of the  
15 Board.

16 This is Dustin Weatherby, Chief of the  
17 Legislative, Research and Statistics Division.

18 So attached to the Public Agenda Notice, I  
19 provided the Board with three legislative proposals, and  
20 the respective analyses for consideration for the Board  
21 into the inclusion of the BOE's 2023 legislative  
22 package.

23 So for proposals that are approved by the  
24 Board, I will begin the process of working with the  
25 Legislature to secure authors and assist with moving the

1 Board sponsors proposals through the legislative  
2 process.

3 So for each proposal I am presenting today, I  
4 will summarize the proposed legislation, provide  
5 background on why the proposal is necessary, and state  
6 any fiscal impacts -- any fiscal effects the proposed  
7 change will have. So each of these proposals will be  
8 discussed separately and presented separately.

9 So the first legislative proposal amends  
10 Revenue and Taxation Code Section 32387 to authorize  
11 electronic service levies to collect delinquent tax  
12 liabilities under the Alcoholic Beverage Tax program.

13 So current statute allows levies under the ABT  
14 program to be only sent via first-class mail or  
15 personally served by an individual.

16 So this proposal would increase efficiency and  
17 administration of the ABT program. It does not have any  
18 fiscal impacts.

19 So this will conclude my presentation on this  
20 proposal, and I'm available to take any questions.

21 MS. COHEN: Thank you.

22 I have no questions.

23 Do you have one?

24 MR. VAZQUEZ: Just a quick one.

25 First of all, thank you for the report,

1 Mr. Weatherby.

2 I am very supportive of this proposal. I was  
3 just curious if, you know, on the refund process that  
4 you are proposing here, to do it very quickly, can you  
5 briefly clarify the public process, how that's going  
6 to -- how it works?

7 MR. WEATHERBY: So thank you for that  
8 question, Board Member Vazquez.

9 That's actually going to be proposal No. 2 on  
10 refunds and cancelations.

11 MR. VAZQUEZ: Oh, I'll wait.

12 MS. COHEN: Great. Thank you.

13 MS. CICHETTI: So we're going to take a vote  
14 on each one to see if you guys want to go forward with  
15 these.

16 We're first going to go out to the AT&T  
17 moderator.

18 AT&T moderator, do we have anyone on the line  
19 who would like to make a public comment regarding this  
20 item?

21 AT&T MODERATOR: Ladies and gentlemen, to  
22 comment on this item, please press one, zero at this  
23 time.

24 Once again, for public comment, please press  
25 one, zero, please.

1                   We have no callers in queue.

2                   MS. CICHETTI: Thank you.

3                   MS. COHEN: No callers in queue.

4                   Thank you.

5                   Let's see. No questions for the colleagues?

6                   All right. Let's keep going.

7                   MS. CICHETTI: Take a motion?

8                   MS. COHEN: Yes.

9                   MS. CICHETTI: We'd like to take a vote if in

10 fact we'd like Mr. Weatherby to go forward with this.

11                   Mr. Weatherby, we'll take a -- I'll take a

12 motion.

13                   Is there a second for us to move forward?

14                   Second by Mr. Schaefer.

15                   We will move forward. Please continue.

16                   MS. CICHETTI: Take a vote.

17                   MS. COHEN: Thank you.

18                   MS. CICHETTI: Member Cohen made a motion for

19 Mr. Weatherby to move forward on this proposal as

20 presented.

21                   Chair Cohen.

22                   MS. COHEN: Aye.

23                   MS. CICHETTI: Vice Chair Schaefer.

24                   MR. SCHAEFER: Aye.

25                   MS. CICHETTI: Member Gaines.

1 MR. GAINES: Aye.

2 MS. CICHETTI: Member Vazquez.

3 MR. VAZQUEZ: Aye.

4 MS. CICHETTI: Controller Yee.

5 MS. YEE: Aye.

6 MS. CICHETTI: Motion passes.

7 MR. WEATHERBY: Okay. Board Members, moving  
8 on to the second item. The second legislative proposal  
9 amends RTC Sections 32401 and 32440 to require any  
10 determinations or cancellations made by the Board under  
11 the Alcoholic Beverage Tax program.

12 There are an excess of \$50,000 to be made  
13 available to the public for at least ten days after the  
14 effective date of the determination or cancellation,  
15 rather than ten days prior.

16 So this applies to tax penalty or interest  
17 that have been paid more than once, have been  
18 erroneously or illegally collected or computed.

19 This proposal will increase efficiency in  
20 administration of ABT program, and allows taxpayers who  
21 overpaid their tax, or had amounts erroneously  
22 calculated, to receive their refund or cancellation  
23 earlier. So this proposal has no fiscal impact.

24 This will conclude my presentation on this  
25 item. I'm available to take any questions.



1 MS. COHEN: Any questions?

2 MR. VAZQUEZ: I'm sorry. Go ahead.

3 MS. COHEN: Mr. Schaefer, do you want to go  
4 first?

5 MR. SCHAEFER: Yes.

6 Dustin, how many determinations or  
7 cancellations do we do with the Board of -- under the  
8 Alcoholic Beverage Tax program? Is it several a year or  
9 less?

10 MR. WEATHERBY: Thank you for that question,  
11 Vice Chair Schaefer.

12 I don't have the exact numbers in front of me.  
13 For this particular proposal, this only effects any  
14 items that are greater than 50,000. And to my  
15 knowledge, there have not been any refunds, or, I mean,  
16 any cancellations or determinations greater than that in  
17 at least the last five years.

18 MR. SCHAEFER: Thank you.

19 MR. WEATHERBY: You're welcome.

20 MS. COHEN: Mr. Vazquez.

21 MR. VAZQUEZ: Just a quick one.

22 I was asking earlier, and it's more just if  
23 you could briefly clarify to the public that's listening  
24 here, how this is going to -- or how is it going to  
25 expedite this?

1           MR. WEATHERBY: So, for example, if a taxpayer  
2 had accidentally overpaid their tax, so let's say they  
3 paid the tax twice. And let's just assume it's \$55,000.  
4 They could go back to collections and, you know, prove  
5 that they've overpaid twice.

6           And once the collections approves that their  
7 determination was, yeah, they overpaid twice  
8 accidentally, or in the instance if, you know, the  
9 agency incorrectly assessed a tax on them greater than  
10 50,000, then that taxpayer would then receive that  
11 refund.

12           Under current statute, the way it works is if  
13 it's greater than 50,000, the agency -- the Board would  
14 make a determination, and then that determination  
15 becomes public record. It gets put into a binder that's  
16 held by agency staff. And then that will sit in that  
17 binder for ten days. Then after ten days, then the  
18 taxpayer would receive their refund.

19           This proposal would essentially expedite that  
20 process and move the timeline to ten days after the  
21 refund or the determination or cancellation is made.

22           So once that determination is made, the  
23 taxpayer would then get the refund, and then that would  
24 be held in public record for ten days after.

25           Because once these determinations are made,

1 there's no way for the agency to recoup the money, if  
2 need be. The only way the agency could get the money  
3 back would be the State Controller would have to  
4 essentially file suit in court to then claw back the  
5 money.

6 So this really just assists taxpayers in  
7 getting the money back to them earlier, rather than  
8 having to wait when there's really no sort of process  
9 for the agency to get that money back anyways.

10 MR. VAZQUEZ: And if it's an error on our  
11 part, we provide with interest, or we don't?

12 MR. WEATHERBY: No, we don't.

13 MS. COHEN: All right. Great. Thank you.

14 MS. CICHETTI: AT&T moderator, is there anyone  
15 on the line who would like to make a public comment  
16 regarding this matter?

17 AT&T MODERATOR: Currently none in queue.

18 Ladies and gentlemen, to comment, please press  
19 one, zero.

20 And we have no callers queueing up to comment.

21 MS. COHEN: Okay. Thank you.

22 Let's continue.

23 MS. CICHETTI: Motion to --

24 MS. COHEN: Yes. Accept.

25 Is there a motion to accept?

1 MR. SCHAEFER: Second.

2 MS. COHEN: All right. I'll make the motion,  
3 second by Mr. Schaefer.

4 MS. CICHETTI: Member Cohen made a motion to  
5 move forward with the proposal as presented by staff,  
6 seconded by Mr. Schaefer.

7 Taking roll.

8 Chair Cohen.

9 MS. COHEN: Aye.

10 MS. CICHETTI: Vice Chair Schaefer.

11 MR. SCHAEFER: Aye.

12 MS. CICHETTI: Member Gaines.

13 MR. GAINES: Aye.

14 MS. CICHETTI: Member Vazquez.

15 MR. VAZQUEZ: Aye.

16 MS. CICHETTI: Controller Yee.

17 MS. YEE: Aye.

18 MS. CICHETTI: Motion passes.

19 MS. COHEN: Great. Thank you.

20 Thank you.

21 MR. WEATHERBY: Thank you.

22 And the final proposal is a proposal to amend  
23 RTC Section 62.1, 62.5 and 69.4 to include references to  
24 Revenue and Taxation Code Section 63.2, and,  
25 additionally, amend Section 69.4 to include reference to

1 Revenue and Taxation Code 69.6.

2 So, Board Members, SB 539, as you know, is the  
3 Proposition 19 implementation bill that was signed in  
4 2021, added Revenue and Taxation Code 63.2 relating to  
5 the intergenerational transfer exclusion, and Revenue  
6 and Taxation Code 69.6 related to the over 55, severely  
7 disabled, or disaster base year value transfer.

8 Currently, the statute does not reference  
9 these sections, so this is a technical proposal that  
10 incorporates changes made by SB 539 into the RTC code.  
11 This does not have any fiscal impact.

12 And this will conclude my presentation on this  
13 proposal. And I'm happy to take any questions.

14 MS. COHEN: Thank you.

15 Let's see if there's any questions.

16 I don't see any. Thank you.

17 MS. CICHETTI: AT&T moderator, is there anyone  
18 on the line who would like to make a public comment  
19 regarding this matter?

20 AT&T MODERATOR: Once again, for public  
21 comment on this matter, please press one, zero.

22 One, zero for comment, please.

23 And, again, we have no callers in queue.

24 MS. COHEN: Thank you.

25 I'll make a motion to adopt. And a --

1 MR. SCHAEFER: Second.

2 MS. COHEN: -- second by Mr. Schaefer.

3 MS. CICHETTI: Member Cohen makes a motion to  
4 move forward on the proposal as presented by staff, with  
5 a second from Mr. Schaefer.

6 Take the roll.

7 Chair Cohen.

8 MS. COHEN: Aye.

9 MS. CICHETTI: Vice Chair Schaefer.

10 MR. SCHAEFER: Aye.

11 MS. CICHETTI: Member Gaines.

12 MR. GAINES: Aye.

13 MS. CICHETTI: Member Vazquez.

14 MR. VAZQUEZ: Aye.

15 MS. CICHETTI: Controller Yee.

16 MS. YEE: Aye.

17 MS. CICHETTI: Motion passes.

18 MS. COHEN: Great. Thank you very much.  
19 Thank you for your presentation.

20 MR. WEATHERBY: Thank you, Board Members.

21 MS. COHEN: All right. Colleagues, what I'd  
22 like to do at this point is go back to -- make a motion  
23 to revisit the item 11a that was deferred from earlier  
24 this morning.

25 Is there a second?

1 MR. VAZQUEZ: Oh, we need a second?  
2 I'll second if we need a second. I thought it  
3 was automatic. I'm sorry.  
4 MS. CICHETTI: I'm not quite sure.  
5 MS. COHEN: It's not automatic.  
6 MR. NANJO: It requires a second.  
7 And just for clarification, this is a motion  
8 to un-table the matter I1 from earlier this morning.  
9 As I understand it, Chair Cohen made the  
10 motion, and it sounds like Member Vazquez seconded.  
11 MR. VAZQUEZ: Yes.  
12 MS. CICHETTI: All right. We have a motion on  
13 the table to un-table Item I1a, made by Ms. Cohen, and  
14 seconded by Mr. Vazquez.  
15 I'm going to take the roll.  
16 Chair Cohen.  
17 MS. COHEN: Aye.  
18 MS. CICHETTI: Vice Chair Schaefer.  
19 MR. SCHAEFER: Aye.  
20 MS. CICHETTI: Member Gaines.  
21 MR. GAINES: Aye.  
22 MS. CICHETTI: Member Vazquez.  
23 MR. VAZQUEZ: Aye.  
24 MS. CICHETTI: Controller Yee.  
25 MS. YEE: Aye.

1 MS. CICHETTI: Back on the --

2

3 **ITEM 11a**

4

5 MS. COHEN: We're back on it. Thank you.

6 Thank you.

7 So, colleagues, right before we took our lunch

8 break, Mr. Epolite had read into the record some

9 changes.

10 And so what I'd like to do is to accept his

11 proposed change.

12 This is in proposed change B, page 13,

13 subsection 8. This is the Board Chair and Vice Chair

14 section, section A, Election of Board Chair and Vice

15 Chair.

16 Remove -- I'd like to remove in the second

17 line, in the second latter part of the sentence, "or

18 earlier if there is no December meeting."

19 I'm going to remove that, because state

20 statute requires us to act accordingly.

21 And then also I'd like to remove portions of

22 language that I was proposing earlier. The portions

23 that I'd like to remove are, quote, "During an election

24 year, the Chair will continue to serve as Chair until

25 the election of new officers was set and approve the



1 agenda in December for the subsequent January Board  
2 Meeting.

3 If the Chair is termed out, not re-elected, or  
4 decides not to run for re-election, the Vice Chair will  
5 serve as Chair.

6 If both Chair and Vice Chair are termed out,  
7 not re-elected, or decides not to run for re-election,  
8 the Executive Director will have the Controller call the  
9 first meeting in order, pending the election of  
10 officers."

11 So, again, I'm advocating for the removal of  
12 this language. And I am attempting to address just the  
13 election of the Chair and the Vice Chair.

14 Is there any discussions?

15 Member -- Controller Yee.

16 MS. YEE: Thank you, Madam Chair.

17 Can you maybe just read the paragraph now as  
18 it stands, reflecting your --

19 MS. COHEN: My changes?

20 MS. YEE: Yes.

21 MS. COHEN: Yes.

22 The Board shall -- this is again, A, Election  
23 of the Board Chair and the Vice Chair.

24 The Board shall automatically place on the  
25 agenda an election to take place in December for the

1 offices of Chair and Vice Chair of the Board.

2 The Chair and Vice Chair shall serve one full  
3 year term, which shall begin January 1st of the  
4 following year, and will end on December 31st, with the  
5 exception of an election year.

6 There is no limit on serving consecutive  
7 terms. If there is a tied vote, the currently serving  
8 Chair or Vice Chair, as the case may be, shall continue  
9 to serve.

10 MS. YEE: So thank you for clarifying.

11 So with respect to the exception of an  
12 election year, are we clarifying what happens in an  
13 election year with that second sentence in the  
14 paragraph?

15 MS. COHEN: The second sentence in the  
16 paragraph. "During an election year, the Board shall  
17 defer," is that what you're meaning, that sentence?

18 MS. YEE: Yes.

19 MS. COHEN: Yes.

20 MS. YEE: Okay. So we're keeping that  
21 sentence?

22 MS. COHEN: Correct.

23 MS. YEE: Because that would make sense if  
24 you're calling out the exception, right?

25 MS. COHEN: Yes.

1 MS. YEE: Okay. And can we clarify that it's  
2 during a gubernatorial election year? I mean, since  
3 it's --

4 MS. COHEN: Yeah, we could clarify that.

5 MS. YEE: We could have elections every year.

6 MS. COHEN: That's a good point.

7 I just want to make sure our Legal team is  
8 following these note changes. A gubernatorial year,  
9 election year.

10 MR. NANJO: So --

11 MS. COHEN: So it's --

12 MR. NANJO: Just -- just so I'm following  
13 along. Excuse the interruption, Chair Cohen.

14 I'm understanding that we are talking about on  
15 the item that is attached to the PAN, proposed change,  
16 letter B. And this is language with the exception of  
17 the, "or earlier if there is no December meeting," being  
18 struck out, and specifying that we're referring to a  
19 gubernatorial election year; is that correct?

20 MS. COHEN: That's correct.

21 MR. NANJO: Okay. That's the changes I have  
22 so far. Thank you.

23 MS. COHEN: That's -- that's what we just  
24 discussed.

25 MR. NANJO: Just want to make sure I'm

1 tracking. Appreciate it.

2 MS. COHEN: You're tracking correct.

3 Yes.

4 MR. VAZQUEZ: So just point of clarification.

5 So this sounds different than what you were  
6 mentioning earlier. So are we still going to agendize  
7 the election in December?

8 MR. NANJO: As I understand the change, it is  
9 what Member Cohen -- excuse me -- Chair Cohen had  
10 suggested earlier.

11 So in this case, because we are in a  
12 gubernatorial election year, it would be deferred. And  
13 according to her language, it would be deferred to  
14 January.

15 MR. VAZQUEZ: Oh, then I'm opposed to that.  
16 I think it should happen -- we should agendize it like  
17 we originally had in the governance in December.

18 And if for some reason there's not a  
19 consensus, then I would go to your recommendation to  
20 defer to January, if your -- if that's friendly.

21 MS. COHEN: Controller Yee.

22 MS. YEE: So is the intent here to have -- so  
23 during a gubernatorial election year, the election of  
24 the Chair and Vice Chair would be deferred until after  
25 the duly-elected Board Members are sworn in.

1           Okay. I see. So you want the -- you want the  
2 new Board Members to have an ability to participate in  
3 the election of the Chair and Vice Chair at the same  
4 time. Okay.

5           And, Mr. Vazquez, your objection?

6           MR. VAZQUEZ: And my -- my position is, like  
7 in this case, we -- it just so happens that our Chair is  
8 already going to be gone in December, right? She'll be  
9 leaving us.

10          MS. YEE: She'll be leaving in January.

11          MR. VAZQUEZ: Yes. So rather than -- and in  
12 talking to staff, and maybe staff can come up, it's my  
13 understanding, if we have the opportunity to elect a  
14 Chair, if there's a consensus on the Board, for example,  
15 in December, to elect a Chair, that we should do it, and  
16 give that person the opportunity to work with the Chair  
17 or the staff to make sure that everything is in line in  
18 January.

19           And in this case, we would have a vacancy  
20 basically between December -- we would be Chair-less, I  
21 guess, between December and January.

22          MS. YEE: No, you wouldn't.

23          MS. COHEN: No.

24          MS. YEE: No. Member Cohen, or  
25 Controller-elect will not be assuming office of

1 Controller until January 2nd. So she would Chair this  
2 Board through December.

3 MR. VAZQUEZ: Right. Which they do anyways,  
4 right?

5 MS. YEE: Yeah.

6 MR. VAZQUEZ: I'm just saying, if there's an  
7 opportunity, if there's a consensus, for example --

8 MS. YEE: Uh-huh.

9 MR. VAZQUEZ: -- that in December, since  
10 it's -- the way the governance is written now, we're to  
11 agendize it every December.

12 And actually looking at the minutes back, the  
13 original conversation, I believe it was you that  
14 mentioned if we could do it earlier, it's even better.  
15 Just to give time for staff and the new leadership to  
16 prepare --

17 MS. YEE: For a transition, yeah.

18 MR. VAZQUEZ: Right.

19 So that's why I was kind of -- and now, but  
20 let's say, for example, there isn't a consensus in  
21 December. Then you're right, it would just roll back to  
22 us until January when, in this case, we would have one  
23 new Board Member to weigh in.

24 MS. YEE: Yeah. And I remember when this  
25 first came up, and I --

1 MR. VAZQUEZ: And, actually, you know, if we  
2 wanted to separate it, and say just the Chair, and then,  
3 you know, and wait for the new Board Member, in this  
4 case, to come on in January for the Vice Chair, I  
5 would -- I'm okay with that.

6 MS. YEE: I don't think I'm okay with that.

7 I think the organization of the Board should  
8 be an action that is a complete one for consideration of  
9 a leadership of this Board.

10 And I apologize. I had not contemplated when  
11 we did the original Governance Policy. Because I think  
12 it was shortly after all of you were elected.

13 MR. VAZQUEZ: Right.

14 MS. YEE: So I wasn't even thinking that far  
15 ahead. But it seems to me it makes sense for whoever  
16 the incoming Board Member -- Board Member, singular, is  
17 going forward should have the ability to participate in  
18 the vote on the organization of the Board, because  
19 that's who they're going to be serving with.

20 Yeah. I had not contemplated that aspect of  
21 it when we had that original Governance Policy. Because  
22 I think we were just so concerned about the timing when  
23 we would do the organization of the Board at that time.

24 But I see Ms. Cohen's point about, you know,  
25 not precluding the opportunity for a Board Member-elect

1 to actually then participate in the organization of the  
2 Board once sworn in. Since that person will be probably  
3 then a bona fide member of this body.

4 MS. COHEN: Okay. Mr. Gaines, you had also  
5 expressed some consternation about this. Do you have  
6 anything?

7 MR. GAINES: I just don't think there's any  
8 reason to change it.

9 MR. VAZQUEZ: Yeah.

10 MR. GAINES: We've set a policy. And I'm not  
11 convinced that the decision has to be made in January.

12 We would have the same situation in four  
13 years, we're going to have a majority leave this Board.  
14 So Mr. Vazquez and Mr. Schaefer and myself will be  
15 termed out.

16 And, you know, I just don't -- in terms a  
17 changing of a new member who hasn't been sworn in yet,  
18 so I'm not sure why that individual should be weighing  
19 in on the decision for the Board in terms of who the  
20 Chair is of the Board.

21 We are Members that have served here for a  
22 term. We've been re-elected for a second term. So I  
23 don't understand the rationale.

24 MR. VAZQUEZ: Neither do we.

25 I mean, at the end of the event, I mean, if we



1 agendize it in December, and for some reason there's not  
2 a consensus, then I would say, "Yeah, let's move it to  
3 January," is what I would propose. But I don't know how  
4 other people feel.

5 MS. COHEN: Well, I think that what I would  
6 like to do is maybe just kind of use an example.

7 On November 8th voters voted to elect new  
8 members in the House of Representatives. And if an  
9 election were held among the current members,  
10 Nancy Pelosi would be the elected Speaker. And this  
11 would not reflect the results of the election.

12 That's why the new speaker will be elected by  
13 the new House meeting in January.

14 And what we are tempting to do here at the  
15 Board of Equalization should support this democratic  
16 tradition of having newly-elected members select their  
17 leader.

18 We followed this policy when I was at the  
19 San Francisco Board of Supervisors. It follows the  
20 House of Representatives. And I think that it should  
21 follow the same democratic principles here at the Board.

22 This is not about individual Board Members.  
23 It's not about -- it's really about respecting voters.  
24 And that their will be expressed at the ballot box.

25 And the new Member, yes, she will be new, but

1 she will be representing ten million people, one-fourth  
2 of the state of California.

3           And so I think that we should take and welcome  
4 this opportunity to -- to make this correction. I think  
5 that Controller Yee, when she was putting forth the  
6 governance document, was a policy to guide us, and quite  
7 honestly has done a great job. It's done exactly that  
8 this entire year, last year as well. It has helped us  
9 steer through some murky areas and has brought us  
10 clarity.

11           So I think that we are just going to be at an  
12 impasse. And we've got some folks -- two Members at  
13 least that are not in agreement to -- to what is being  
14 proposed here.

15           I'm going to make a motion to adopt the  
16 changes to the Governance Policy.

17           And is there a second for this motion?

18           MS. YEE: I'll -- I'll second the motion.

19           MS. COHEN: Seconded by Controller Yee.

20           Thank you.

21           Could you please -- let's see. We took public  
22 comment earlier, but maybe we should take it again.

23           MS. CICHETTI: We'll take it again on this  
24 motion.

25           MR. VAZQUEZ: Madam Chair, I'd like to make a

1 substitute motion.

2 I'd like to make a substitute motion that we  
3 leave the document as it is in terms of the Chair and  
4 the Vice Chair for December.

5 And if for some reason there's no consensus,  
6 because -- in December, then we roll it into January.

7 Because as you were mentioning, you know, this  
8 new person represents ten million. We have three other  
9 Members that represent 30 million that were just  
10 re-elected.

11 So I don't see that as being undemocratic. I  
12 see it more -- it's more -- for me, it's more of an  
13 issue of just a smoother transition.

14 And in talking to staff, and correct me if I'm  
15 wrong, Executive Director, for you, I think it makes --  
16 it makes it an easier transition if you know who the  
17 Chair is in December that you're going to be working  
18 with in January, correct?

19 MS. STOWERS: Thank you, Member Vazquez, for  
20 that question.

21 It would make it easier as we're setting up  
22 our agenda and making the plans.

23 And I'm tracking what Chair Cohen is saying as  
24 well, as far as in the gubernatorial year, like this  
25 year, the current Chair will help set the agenda in

1 December for the January meeting.

2           That's fine. But when I'm looking at the  
3 calendar in the process of that, I have a December  
4 meeting scheduled for December 13th and 14th, and it's  
5 going to be a full calendar.

6           And then I have a January meeting scheduled  
7 for January 25th. So that -- and then factor in  
8 holidays. I think for this particular year, to try to  
9 get the January agenda approved by December 31st or  
10 January 2nd, would be a heavy lift for all parties.

11           So I don't think it's feasible. I think --  
12 and recognizing what everybody is saying, the need for  
13 all incoming -- all Members to have an opportunity to  
14 select the leadership of the Board.

15           May I offer that we don't do an election in  
16 December. We wait until January. And we could either  
17 wait until January 25th when we have our first scheduled  
18 meeting, or currently, the current Chair can go ahead  
19 and schedule a special meeting to take place earlier in  
20 January just for that sole purpose of the election of  
21 the Chair and Vice Chair.

22           And from that time period where the current  
23 Chair would then be the Controller and sworn in, we  
24 won't have a Chair in place, but our current Governance  
25 allows for the Vice Chair to step in.

1 MS. COHEN: Right. So there's still --  
2 there's still leadership here.

3 MS. STOWERS: Yes.

4 MS. COHEN: I appreciate a third option. And  
5 I think that's a fair compromise to have a second -- a  
6 second -- a special election in earlier parts of  
7 January. I'm inconsequential to that.

8 Maybe we can take up that matter after. We  
9 need to bring closure on the open motion now.

10 MS. STOWERS: I agree.

11 MS. COHEN: But I agree that that is an  
12 opportunity that would -- might satisfy his concerns.

13 MS. YEE: Madam Chair, I have a question to  
14 Ms. Stowers.

15 I'm sorry. I missed the whole thread about  
16 why the need for a specially-noticed meeting generally?

17 MS. STOWERS: I was just thinking if we wanted  
18 to get the Chair and Vice Chair in place as soon as  
19 possible. Because we don't have our first meeting until  
20 January 25th.

21 MR. VAZQUEZ: At the end of the month.

22 MS. STOWERS: At the end of the month.

23 MS. YEE: Right.

24 MS. STOWERS: But we could -- we don't have to  
25 have a special meeting. We could just, business as

1 usual, don't vote in December, Vice Chair Schaefer will  
2 be the acting -- by Governance will be --

3 MS. COHEN: Will be the Chair.

4 MS. STOWERS: -- the Chair, and will lead the  
5 meeting in January. Will approve the agenda, and lead  
6 the meeting. And the first thing on the calendar for  
7 the meeting could be the organization of the Board.

8 MS. COHEN: Correct. There's no leadership  
9 gaps.

10 MS. STOWERS: No.

11 MS. YEE: Yeah. Okay. I see. Thank you.

12 MS. COHEN: Okay. There's been a motion  
13 that's been made. It's been second.

14 Ms. Cichetti, do we need to take public  
15 comment again on this particular item?

16 MS. CICHETTI: Yes.

17 MR. GAINES: Well, wait a second. We had a  
18 substitute motion.

19 MR. VAZQUEZ: I had a substitute motion.

20 Was there a second on it, though?

21 MR. GAINES: I'll second it.

22 MR. VAZQUEZ: And there was a second. So I  
23 guess the substitute motion goes first.

24 MS. COHEN: No. Does it?

25 MS. YEE: Yeah. It got a motion, a second.

1 Yes.

2 MS. COHEN: No, I don't think so. I think  
3 the --

4 MR. NANJO: It has to be voted on.

5 MS. COHEN: Yeah. Thank you.

6 MR. NANJO: The substitute motion has to be  
7 voted on. If it's voted on and approved, then it  
8 takes --

9 MR. VAZQUEZ: But that's what I'm saying.

10 MS. YEE: Yeah. It's on the floor.

11 MR. VAZQUEZ: But it's on the floor.

12 MS. COHEN: It's on the floor. So then we  
13 can -- so we're going to call the substitute motion.

14 But first I think we need to make sure we have  
15 public comment. Because there's a lot of information  
16 going on.

17 MR. NANJO: Correct.

18 MS. CICHETTI: I'm going to read the  
19 substitute motion.

20 That we leave the document as it is in terms  
21 of the Chair and the Vice Chair for December, and if for  
22 some reason there's no consensus, because -- in  
23 December, then we roll it into January.

24 MR. VAZQUEZ: Or we can do it early January.

25 MR. NANJO: And just -- sorry to be technical.

1 But just so that we're all clear, when you mean  
2 consensus, you mean a majority vote for Chair or Vice  
3 Chair.

4 MR. VAZQUEZ: Right. We need a majority for  
5 it to go forward.

6 MR. NANJO: Right. I -- well, "consensus" can  
7 note something a little different. So --

8 MR. VAZQUEZ: I appreciate the clarification.

9 MR. NANJO: Thank you, sir.

10 MS. CICHETTI: So the motion was given by  
11 Mr. Vazquez, and was seconded by Mr. Gaines.

12 MS. COHEN: Correct.

13 MS. CICHETTI: So I can call the roll on that  
14 one.

15 MS. COHEN: Yes.

16 MS. CICHETTI: I believe I need to go out to  
17 the AT&T moderator first.

18 AT&T moderator, is there anyone on the line  
19 who would like to make a public comment regarding this  
20 motion?

21 AT&T MODERATOR: Ladies and gentlemen, to make  
22 a comment on this motion, please press one, zero at this  
23 time.

24 And we have no callers queueing up.

25 MS. CICHETTI: Thank you.



1 I'm going to call roll.  
2 Chair Cohen.  
3 MS. COHEN: No.  
4 MS. CICHETTI: Vice Chair Schaefer.  
5 MR. SCHAEFER: No.  
6 MS. CICHETTI: Member Gaines.  
7 MR. GAINES: Aye.  
8 MS. CICHETTI: Member Vazquez.  
9 MR. VAZQUEZ: Aye.  
10 MS. CICHETTI: Controller Yee.  
11 MS. YEE: No.  
12 MS. CICHETTI: The motion does not pass.  
13 MS. COHEN: Okay. Thank you.  
14 The motion fails. The substitute motion  
15 fails.  
16 You might recall that we have another motion  
17 that was also on the floor that was seconded.  
18 MS. CICHETTI: The original motion, yes.  
19 MS. COHEN: Right.  
20 MS. CICHETTI: And the motion was, that I have  
21 is to adopt the changes to the Governance Policy as  
22 outlined by Ms. Cohen. I believe -- let's see --  
23 MR. NANJO: I can help a little bit.  
24 It is the one that was published, proposed  
25 change, letter B, as in boy, with the exception of the

1 clause at the end of the first sentence, which states,  
2 "or earlier if there is no December meeting," is struck.  
3 And the word "gubernatorial" is put in front of the  
4 election year.

5 MS. YEE: Mr. Nanjo, may I ask through the  
6 Chair, will you just read the paragraph as revised --

7 MS. CICHETTI: Yeah. I have it.

8 MS. YEE: So we're not trying to draw arrows  
9 all over the place.

10 Just read the entire paragraph, please.

11 MS. COHEN: Would you like me to read it?

12 MS. CICHETTI: I have one question.

13 What was your statement, Mr. Nanjo?

14 MR. NANJO: The "during an election year" was  
15 put back in. So that's part --

16 MS. COHEN: And it's been put back to a  
17 gubernatorial election year. I'll read it. I'll read  
18 it.

19 Ladies, let me do it.

20 COHEN: The Board shall automatically place on  
21 the agenda an election to take place in December for the  
22 offices of Chair and Vice Chair of the Board.

23 During a gubernatorial election year, the  
24 Board shall defer the election of the Chair and Vice  
25 Chair until after the duly-elected Board Members are

1 sworn into office, and such instances the Board will  
2 place on the agenda an election to take place in January  
3 for the offices of Chair and Vice Chair on the Board.

4 There is no limit on serving consecutive  
5 terms. There is -- if there is a tie vote, the  
6 currently serving Chair or Vice Chair, as the case may  
7 be, shall continue to serve.

8 MS. YEE: So preserving the last two sentences  
9 in the paragraph.

10 MS. COHEN: Yes, that's right.

11 Okay. So that's the motion that's on the  
12 table that's been made. It's been seconded by  
13 Mr. Schaefer.

14 Let's call the roll.

15 MS. CICHETTI: I have it that it was by you,  
16 and Ms. Yee seconded it.

17 MS. COHEN: Excuse me.

18 MS. CICHETTI: Just wanted to make sure.

19 MS. COHEN: That is correct.

20 Thank you.

21 MS. CICHETTI: I'm going to take the roll.

22 Chair Cohen.

23 MS. COHEN: Aye.

24 MS. CICHETTI: Vice Chair Schaefer.

25 MR. SCHAEFER: Aye.

1 MS. CICHETTI: Member Gaines.

2 MR. GAINES: No.

3 MS. CICHETTI: Member Vazquez.

4 MR. VAZQUEZ: No.

5 MS. CICHETTI: Controller Yee.

6 MS. YEE: Aye.

7 MS. COHEN: Thank you very much.

8 Appreciate --

9 MS. CICHETTI: The motion passes.

10 MS. COHEN: Appreciate the motion passing.

11 Thank you.

12 Okay. It's a little bit after 2:00 o'clock.

13 MR. NANJO: Chair Cohen.

14 MS. COHEN: Yes.

15 MR. NANJO: I'm sorry. There was a couple

16 more changes that was suggested. I didn't know if you

17 wanted to address that.

18 MS. COHEN: Okay.

19 MR. NANJO: One was the change adding, H,

20 Board Work Group Policy and Charter. That's part of the

21 documents that were distributed and attached to the PAN.

22 And the other change was -- on the very end

23 was adding a clause to that paragraph that we just

24 edited regarding the Work Group and Work Group Chair.

25 MS. COHEN: Yeah.

1 MR. NANJO: So I didn't know if you wanted  
2 to --

3 MS. COHEN: The changes you read earlier.

4 MR. NANJO: Yes. Yes.

5 MS. COHEN: I'm supportive of those changes.  
6 Mr. Epolite was here for that part of the  
7 conversation.

8 Controller, do you want a chance of caucus  
9 with him, or are you prepared to vote?

10 MS. YEE: I'm okay.

11 MS. COHEN: You're okay?

12 MS. YEE: Yeah.

13 MS. COHEN: Okay. All right. Perfect.  
14 Could someone remind me, did we take action?  
15 Did we make a motion to accept these changes? No?

16 MR. NANJO: Not yet.

17 MS. COHEN: Okay. Thank you.  
18 I'll make a motion to accept the changes to  
19 the Work Group policy.

20 MR. VAZQUEZ: Second.

21 MS. COHEN: Second by Mr. Vazquez.  
22 Let's go to the roll.

23 Excuse me. Let's go to public comment.

24 MS. CICHETTI: AT&T moderator, is there anyone  
25 on the line who'd like to make a public comment

1 regarding this motion?

2 AT&T MODERATOR: For public comment on this  
3 motion, please press one, zero.

4 And we have no callers in queue to comment.

5 MR. NANJO: And just for clarity, for those  
6 people who are following in, we are talking about  
7 making, through this motion, the changes in the first  
8 suggestion or proposal and the last proposal. Which are  
9 both having to do with the Work Group language.

10 MS. CICHETTI: All right. I'm going to take  
11 roll.

12 Chair Cohen.

13 MS. COHEN: Aye.

14 MS. CICHETTI: Vice Chair Schaefer.

15 MR. SCHAEFER: Aye.

16 MS. CICHETTI: Member Gaines.

17 MR. GAINES: Aye.

18 MS. CICHETTI: Member Vazquez.

19 MR. VAZQUEZ: Aye.

20 MS. CICHETTI: Controller Yee.

21 MS. YEE: Aye.

22 MS. CICHETTI: Motion passes.

23 MS. COHEN: Thank you.

24 Thank you, Mr. Nanjo.

25 MR. NANJO: Thank you.

1 MS. COHEN: Ms. Stowers, thank you.

2 Let's call the next item, please.

3 MS. CICHETTI: I'm not quite sure what we're  
4 doing on the next item.

5 MS. TAYLOR: Are we calling M2?

6 MS. CICHETTI: Yes. We're gonna call -- okay.  
7 We're gonna go -- not in order here. We're gonna go to  
8 M, M3.

9

10 **ITEM M3**

11

12 MS. CICHETTI: Public Policy Hearing, M3,  
13 Possessory Interest: What constitutes a possessory  
14 interest in housing units owned and leased by a joint  
15 powers authority, JPA? Who is the interest assigned to,  
16 and how are such interests valued and assessed?

17 MS. COHEN: Thank you.

18 (Whereupon Deputy Controller Epolite took the  
19 seat of Controller Yee.)

20 MS. COHEN: All right. So, colleagues, at  
21 this time we will hear -- okay. Thank you.

22 All right. Colleagues, so at this time we're  
23 going to hear presentations on possessory interest. And  
24 specifically I've asked our Legal team to start this  
25 discussion by highlighting for the public, one, what

1 constitutes a possessory interest in general, before our  
2 Legal team dives into the subject matter today.

3           So if you could just give us a high-level  
4 definition of possessory interest. Okay. Then they  
5 will present on the following two specific -- following  
6 specific items, what constitutes a possessory interest  
7 in housing units owned and leased by a joint powers  
8 authority?

9           Also, you'll hear the term "JPA" thrown around  
10 in today's discussion. That stands for joint powers  
11 authority.

12           Who is interested -- who is the interest  
13 assigned to, and how are such interest -- and how are  
14 such interests valued and assessed?

15           So let me read that again.

16           Our Legal team is going to talk to us first  
17 about what constitutes as a possessory interest in  
18 general before the discussion, and then they're going to  
19 present on what constitutes as a possessory interest in  
20 housing units owned and leased by a joint powers  
21 authority, who or where the interest is assigned, and  
22 how such interest valued and assessed -- how are such  
23 interest valued and assessed.

24           And I'm sure you guys are all aware that we  
25 initially placed this item on the agenda during our



1 annual meeting of the Board of Equalization, and the  
2 county assessors meeting, which was held last month.  
3 And after discussions with the California Assessors'  
4 Association, it was removed from the agenda, and  
5 publicly stated that we would provide an opportunity for  
6 our conversation, a public discussion of the issue at  
7 our next Board Meeting, which is what we are doing here  
8 today.

9 This issue has been percolating over the last  
10 year, and we need to get some clarity on it.  
11 Specifically the efforts pursued by local governments to  
12 address the housing crisis in their respective  
13 communities by purchasing market-rate developments  
14 through a joint powers authority, and using a property  
15 tax savings to provide middle-income housing has brought  
16 us to this point.

17 And as the constitutional body responsible for  
18 administering the \$85 billion dollar property tax  
19 system, it's proper for us to start this discussion of  
20 this issue and determine whether we, as a body, should  
21 take necessary steps to convene an interested parties  
22 process on a specific issue.

23 We should also begin conversations around  
24 seeking a legislative solutions providing guidance when  
25 and where appropriate, or simply just to allow the issue

1 to further develop and determine a pathway forward, just  
2 at a later time.

3           So there are many pathways that we can take.  
4 This conversation is high level for us to begin this  
5 conversation, so that people will understand that they  
6 are aware that we know where the stakeholders are, and  
7 that they are a part of this as we move forward.

8           So this is -- we will remain mindful of the  
9 housing crisis that we're facing. We know for a fact  
10 from our previous housing hearings that we need to  
11 increase our housing supply by more than 2.5 million  
12 homes over the next eight-year cycle, with no less than  
13 one million of those homes having some level of  
14 affordability.

15           So with that said, I want to just acknowledge  
16 the California Assessors' Association for first bringing  
17 this issue to my attention, and for their efforts to  
18 educate me and my team about the challenges and the  
19 opportunities associated with this issue.

20           I also want to thank Executive Director  
21 Stowers, Chief Counsel Henry Nanjo, Tax Counsel Richard  
22 Moon, and Deputy Director of Property Tax Division, Dave  
23 Yeung, for their time they spent on this issue.

24           It's a lot of time invested, and I see a lot  
25 more time being invested in the future.

1           And last but not least, I want to thank the  
2 taxpayers and the businesses and the counties and the  
3 cities, as well as the CAA and other stakeholders for  
4 their schedule to present today as well. So I will  
5 leave my remarks there.

6           Does anyone else have any opening remarks?

7           Mr. Gaines.

8           MR. GAINES: Yeah.

9           Would this be the appropriate time to make  
10 some comments about my meeting with my assessors?

11          MS. COHEN: Hold on.

12          Any other comments?

13          Be my guest.

14          MR. VAZQUEZ: On this issue?

15          MS. COHEN: On this issue.

16          MR. VAZQUEZ: Yes. Yes.

17          MS. COHEN: Okay. Well, we'll hear from  
18 Mr. Gaines, and then we'll turn to you.

19          MR. GAINES: So -- yeah, my comments are  
20 related to the meeting that I had. So --

21          MS. COHEN: Okay. So then we will hear it at  
22 the end when all the different districts report out --

23          MR. GAINES: Okay. That's fine.

24          MS. COHEN: -- on what's transpired.

25          MR. GAINES: Great. Thank you.

1 MS. COHEN: Go ahead.

2 MR. VAZQUEZ: Thank you.

3 I agree, first of all, with what the legal  
4 opinion states, that the same position held in prior  
5 court cases, and the prior legal opinions for the past  
6 27 years. I understand. And I am on the same page with  
7 my assessor in LA, Jeff Prang, on this, regarding this  
8 issue.

9 And I'm just wondering -- and -- if we can get  
10 into -- I guess -- the way I'm seeing it, the  
11 possible -- I guess there's a couple options here. And  
12 the BOE position, correct me if I'm wrong here, has  
13 been, one, that buildings owned by JPAs or local  
14 governments that are used for local public housing are  
15 taxable possessory interest.

16 And then, two, however individual units in the  
17 buildings that are leased to low-income occupants at  
18 80 percent AMI should not be taxed by the assessors,  
19 since low-income tenants would otherwise qualify for the  
20 Section 214 Welfare Exemption; is that correct?

21 MR. NANJO: Generally correct, yes.

22 So with that -- can I start, or was there more  
23 questions?

24 MS. COHEN: Yes, please.

25 No, let's go ahead and get started.

1           MR. NANJO: My apologies if this is a little  
2 dry. I wanted to provide kind of a common ground,  
3 especially for those who may be listening in as to some  
4 of the language that has been used.

5           So, Chair Cohen, Vice Chair Schaefer,  
6 Honorable Members of the Board, thank you for this  
7 opportunity.

8           Again, Henry Nanjo, Chief Counsel.

9           Let me just dive right in.

10          For reference, a joint powers association or  
11 agency, or JPA, is an entity created under the Joint  
12 Exercise of Powers Act, a law which allows two or more  
13 public agencies to exercise common powers. They're also  
14 referred to as joint powers authority.

15          The question as to what constitutes a  
16 possessory interest in housing units owned and leased by  
17 a joints powers authority starts with Revenue and Tax  
18 Code 103, which provides that property includes all  
19 matters and things real, personal, mixed, capable of  
20 private ownership.

21          Real property includes the possession of,  
22 claim to, ownership of, or right to the possession of  
23 land. And it has long been held that a class of  
24 property subject to property taxation are those  
25 privately held possessory interests in publicly-owned

1 property.

2           Generally speaking, a possessory interest  
3 includes the right of a private individual or  
4 corporation to use government-owned tax-exempt land or  
5 improvements. And this right is considered a private  
6 interest taxable by the state and its taxing agencies.

7           Thus, a possessory interest is a property  
8 interest separate and apart from fee ownership of the  
9 property.

10           Section 107 of the RTC, subdivision 1, defines  
11 a possessory interest as possession of, claim to, or  
12 right to the possession of land or improvements that are  
13 independent, durable, and exclusive of rights held by  
14 others in the property, except when coupled with  
15 ownership of the land or improvements in the same  
16 person.

17           Property Tax Rule 20, subdivision B, provides  
18 that taxable possessory interest is a possessory  
19 interest in publicly-owned real property.

20           Rule 20, subdivision C3, provides that a right  
21 or claim to right to the possession of real property  
22 means the right claim to a right the actual -- or the  
23 actual physical occupation of real property.

24           It also states that the right or claim to a  
25 right to the possession of real property may exist as a

1 result of a possessor having or claimed to have a  
2 leasehold estate, regardless of how the interest may be  
3 identified in a deed, lease, or other document.

4 So that generally is the legal definition of a  
5 possessory interest.

6 Now, if the property is owned by a JPA and  
7 leased to individual tenants for housing under a lease  
8 contract, a taxable possessory interest is created if it  
9 meets the definition of the RTC.

10 A right to possession of real property that is  
11 independent, durable and exclusive, and provides a  
12 benefit.

13 And those are more technical terms and gets  
14 into other statutes, which I won't read here.

15 If the lease gives the right of possession to  
16 a particular unit in the building owned or operated by a  
17 JPA, the leases create a right to a possession of  
18 property under Rule 20.

19 That right is considered independent, durable,  
20 exclusive and provides a private benefit.

21 So who is this interest assigned to?

22 On BOE's Assessors' Handbook on possessory  
23 interest, it discusses who the interest is assigned to.  
24 Which party should be assessed is largely in the  
25 assessor's discretion.

1           Section 405 provides that the assessor shall  
2 assess all taxable property in the county, except  
3 state-assessed property, to the persons owning,  
4 claiming, possessing, or controlling it on the lien  
5 date.

6           The section does not limit the assessor to  
7 either the holder of the taxable possessory interest,  
8 i.e., the master lessee, or the holder of the  
9 sub-leasehold interest, i.e., the sub-lessee, instead,  
10 the statute authorizes an assessment to either party or  
11 both.

12           The California Constitution and Revenue and  
13 Tax Codes require all property in the state to be taxed,  
14 unless otherwise provided by law.

15           Possessory interest at issue are taxable real  
16 property, and we are aware of no constitutional or  
17 statutory exemption thereof.

18           The local government exemption exempts all  
19 property owned by a local government for property  
20 taxation, but it does state that property owned by a  
21 local government, except as otherwise provided in  
22 section 11a, is exempt from taxation.

23           It is well settled that property tax exemption  
24 from public property is to be liberally construed, and  
25 possessory interest created when publicly-owned housing



1 is leased to private lessees are not considered owned by  
2 the public entity. They are owned by the private  
3 lessee, the tenants; thus, even the most liberal  
4 construction of local government exemption cannot  
5 encompass these possessory interests.

6 Further, the public entity's use of property  
7 to increase affordable housing is irrelevant to whether  
8 or not the possessory interest is exempt.

9 Finally, the fact that the tenant's use of  
10 possessory interest may accomplish a government purpose  
11 is also irrelevant, since there's no exemption for  
12 merely using property owned by a private person for a  
13 governmental purpose.

14 While some courts have held possessory  
15 interests are not taxable based upon their use, those  
16 cases involve possessory interest created in college and  
17 welfare exempt properties.

18 This is significant, since unlike the local  
19 government exemption, the college and welfare exemptions  
20 are based on use.

21 Prior BOE opinions have concluded that the  
22 imposition of possessory interest tax on low-income  
23 tenants would frustrate the state's interest in  
24 providing affordable and low-cost public housing, and,  
25 thus, no possessory interest tax should be assessed.

1           However, it should be noted that these  
2 conclusions were based primarily on an extension of  
3 welfare exemption case law, and declarations of  
4 legislative intent articulated in the state housing  
5 policy to the exemption of taxable possessory interest,  
6 held by specifically low-income tenants in low-cost  
7 public housing.

8           However, even if it is true that possessory  
9 interest tax on public housing tenants lease may  
10 frustrate the state's interest in providing affordable  
11 housing, that fact alone neither exempts the taxable  
12 possessory interest tax, or invalidates the tax.

13           So that is kind of -- unfortunately, it is a  
14 very complicated system, if you will. And there are a  
15 lot of issues. But generally speaking, that's how  
16 possessory interest tax is applied to JPAs.

17           And then as to how the possessory interests  
18 are valued, I turn to my colleague, Mr. Yeung.

19           MS. COHEN: Thank you.

20           MR. YEUNG: Of course.

21           Thank you, Henry.

22           Chair Cohen, Honorable Members of the Board,  
23 the valuation of possessory interest is spelled out in  
24 Rule 21, our Property Tax Rule 21.

25           There are three basic ways in which to value a

1 possessory interest. One of them is by the sales  
2 comparison method, the second one is by the income  
3 approach, and the third is by cost approach.

4           So the first two are -- there's -- there's  
5 actually two components to it. There's the direct, the  
6 indirect for each one of those.

7           So if you were to value a possessory interest,  
8 you can take a look at what that possessory interest,  
9 that one, or one very similar to it would sell for in  
10 the private market, and you would basically look and see  
11 how -- what they're selling for, and that would give you  
12 a good or reasonable indicator of value.

13           That's the direct.

14           The indirect is, because of possessory  
15 interest, you're only valuing its analogous to a  
16 leasehold interest. You can look at the full fee value,  
17 and then subtract out a residual.

18           So you're only looking at the value of what  
19 the holder has, you're taking out at the end with the  
20 residual is what belongs to the government. So that's  
21 one method. That's under the sales approach.

22           Under the income approach, it's basically the  
23 same parallel construction. You can do a direct  
24 approach. You can figure out what this type of property  
25 is being leased for, or what kind of rent they would

1 command. You would capitalize it by turning that income  
2 stream into a present indicator of value. And you would  
3 figure out that's -- what it's worth if you were just to  
4 buy it for its income.

5 The indirect method of the income approach,  
6 you would do exactly the same thing, but you would do it  
7 for a full fee value. And then you would subtract out  
8 basically the remainder, what the government holds.

9 So there's -- there's the -- as with any other  
10 property, there's the sales, income, and a cost  
11 approach. The cost approach is the last one. You would  
12 independently figure out what the land is worth.

13 You would also figure out what it would cost  
14 to do a replacement value of it, depreciate it, and then  
15 subtract out a residual to come up with what the actual  
16 holder of that right is, and what their value is. And  
17 you would not tax the government part of it.

18 So that's basically the three general methods  
19 that is prescribed in our Rule 21.

20 We also have, if you want to delve deeper into  
21 it, we actually have an Assessors' Handbook. It's the  
22 Handbook 510. And it treats the many aspects, and goes  
23 into many examples of actually how to value a possessory  
24 interest.

25 MS. COHEN: That's a lot.

1           Anyone have any questions?

2           MR. VAZQUEZ: That's not an easy one.

3           MR. YEUNG: No.

4           MS. COHEN: Okay. Please continue.

5           I don't think we have any questions.

6           MR. NANJO: That's basically -- we were asked  
7 to kind of tee up the issues. That's basically it.

8           Suffice it to say, the Board of Equalization  
9 has a lot of guidance, as Mr. Yeung eluded to, on  
10 possessory interest.

11           Unfortunately, it is a very complex area.  
12 There's a lot of nuances. And, candidly, there's a lot  
13 of discretion on the part of the assessors.

14           You know, I -- when something is complicated,  
15 my advice is always to go back to the basics. And the  
16 basic is, under the laws of the state of California and  
17 the Constitution, all property in California is taxable  
18 unless otherwise exempt. They were very narrow  
19 exemptions. Unfortunately, public housing is not one of  
20 them.

21           So, consequently, you know, the guidance is  
22 all in the vain of what do you do with the various  
23 nuances.

24           One of the challenges, as you probably heard  
25 from your assessor partners, is that the JPAs all set up

1 a little bit differently. There's no one size that fits  
2 all. So, consequently, a lot of times the assessors,  
3 and many people in the affordable housing community,  
4 reach out to the Board of Equalization to get guidance  
5 on, okay, this is how we've set it up, what's the tax  
6 implications on what we've done?

7 And we try to direct them to the guidance we  
8 have along those lines.

9 MR. GAINES: Question of clarification, if I  
10 could.

11 MS. COHEN: Yes, please. Go ahead.

12 MR. GAINES: Because you mentioned exceptions  
13 for possessory interest. Can you tell us some of those?

14 I think we've had some discussions about  
15 possessory interest that's on state property, whether it  
16 was a state park or things of that nature. And it seems  
17 like there were some exceptions in some of those cases.  
18 I'm wondering if you could outline those.

19 MR. NANJO: There's -- I think the -- the one  
20 I want to be careful about is there are property tax  
21 exemptions. And those are statutorily and/or  
22 constitutionally set forth.

23 MR. GAINES: Okay.

24 MR. NANJO: So there are those.

25 Dave, do you want to go over some of those?

1 MR. YEUNG: For --

2 MR. NANJO: Generally.

3 MR. YEUNG: For general exemptions?

4 Well, for somebody to be exempt for property  
5 taxation purposes, it has to basically fall under  
6 California Constitution, either section three or section  
7 four. And what they are is one provides an exemption  
8 for property that is typically owned by government.  
9 That's the big, broad category. Those are not --  
10 basically are not taxable.

11 The other ones are exemptions for use. And  
12 that is where usually the Welfare Exemption falls under.

13 MR. GAINES: Okay.

14 MR. YEUNG: And so for those, under certain  
15 charitable uses, either charitable, scientific,  
16 hospital, or religious, then, if they're used for that  
17 and follow basically 214 of the Rev. and Taxation Code,  
18 then you can apply for and be eligible for an exemption.

19 MR. GAINES: Okay.

20 MR. YEUNG: So there's a little bit of a  
21 difference between what is taxable and what is --

22 MR. GAINES: Thank you.

23 MR. YEUNG: -- exempt by use.

24 MR. GAINES: I think we had a constituent that  
25 raised the question about possessory interest relating

1 to public property. And I don't know if you were a  
2 vendor, and maybe you're using state property at a  
3 county fair, or state fair, or something of that nature.  
4 There was an exemption, I believe.

5 MR. YEUNG: There -- there -- for state fairs  
6 and fairs in general there is a very narrow exemption.  
7 And that is if your possessory interest is less than  
8 \$50,000, then the -- the county has the option of  
9 adopting an ordinance so that they can -- it's low-value  
10 ordinance. They don't have to enroll it.

11 MR. GAINES: Okay. Okay. So you could have a  
12 cart and serve ice cream at a county fair, and that  
13 would be exempt.

14 MR. YEUNG: Correct. Yes.

15 MR. GAINES: Okay.

16 MR. YEUNG: So there -- and most counties do  
17 actually have a low-value ordinance.

18 MR. GAINES: Okay.

19 MR. YEUNG: And if the actual assessment falls  
20 below a certain point, they have the option of not  
21 enrolling.

22 MR. GAINES: Okay. And then I guess the  
23 bigger question is, as a matter of policy, you know,  
24 could we change the -- I don't know if it would be  
25 statute, or what, or regulation, to provide that



1 exemption in cases that Member Vazquez is bringing  
2 forward as it relates to an exemption for housing?

3 MR. NANJO: So if you're talking about an  
4 exemption that doesn't currently exist, the question  
5 would be, does it fall under one of the constitutionally  
6 available exemptions, if you will.

7 If it doesn't, then you would be talking about  
8 a constitutional amendment to add such an exemption in.

9 MR. GAINES: Okay. All right. And you're  
10 going to provide clarity on that today, is that what  
11 we're asking?

12 MR. NANJO: I don't -- I don't -- I think  
13 that's part two maybe.

14 But the other thing to keep in mind is, as you  
15 know, taxation in -- in the world is kind of -- we have  
16 an ecosystem going, as has been brought out in your  
17 prior public hearings regarding affordable housing, you  
18 know, to the extent that we create a new exemption, and  
19 we don't charge property taxes, that creates a hole for  
20 local revenues, if you will, and you create a backfill  
21 situation.

22 So you're kind of dealing with an ecosystem,  
23 if you will.

24 MR. GAINES: Yes.

25 MR. NANJO: And one change to the ecosystem

1 results in other changes.

2 MR. GAINES: Yeah.

3 MR. NANJO: So that's what makes the whole  
4 subject rather complicated, if you will.

5 MR. GAINES: Right. We've been hearing from a  
6 lot of those interests.

7 MR. NANJO: Absolutely.

8 MR. GAINES: Yeah. Thank you.

9 MS. COHEN: Mr. Nanjo, is Mr. Moon going to be  
10 presenting?

11 MR. NANJO: Is Mr. Moon on?

12 MS. CICHETTI: We can call him.

13 MR. NANJO: Yeah, if you could.

14 MS. COHEN: Let's call him.

15 MS. CICHETTI: Mr. Moon, would you please turn  
16 your camera on for your presentation.

17 MS. COHEN: Good. Thank you.

18 How are you, Mr. Moon?

19 MR. MOON: Good. Good afternoon.

20 MS. COHEN: We'd love to hear from you at this  
21 time.

22 MR. MOON: I don't really have anything to add  
23 to what Mr. Nanjo and Mr. Yeung said.

24 If the Board has any questions or would like  
25 clarification on anything, I'd be more than happy to

1 provide it.

2 MS. COHEN: Thank you very much.

3 Okay. Mr. Yeung, Mr. Nanjo, and Mr. Moon, we  
4 appreciate your presentation. We're going to keep  
5 moving forward.

6 MR. NANJO: Absolutely.

7 And Mr. Moon, I asked him to be available if a  
8 question does come up as well to assist the Board. So  
9 feel free to call upon him.

10 MS. COHEN: Okay.

11 MR. NANJO: Thank you, Richard.

12 MS. COHEN: Mr. Nanjo, is it possible, in your  
13 opinion, for you to speak on a potential legislative  
14 solution, which is not a constitutional amendment? Can  
15 you share?

16 MR. NANJO: I don't believe I have enough  
17 facts to --

18 MS. COHEN: Okay.

19 MR. NANJO: -- determine whether or not it  
20 would -- whether such -- I guess it depends on the  
21 details. The devil is in the details, as they say.

22 Depending on what we are looking at, or the  
23 Board's contemplating, we can let you know if it's  
24 something that can be done legislative or  
25 constitutionally.

1           If we're looking at a legislative fix, if you  
2 will, what -- and Dave can correct me if I'm wrong, the  
3 challenge is we're going to have to find something that  
4 fits in the existing exemptions or exceptions that  
5 already exist in the Constitution.

6           And that's not -- that's why we need the  
7 details, if you will. And that's one of the things that  
8 makes trying to give a general piece of advice to the  
9 JPAs challenging, because it really depends on what the  
10 circumstances are for that specific project, if you  
11 will.

12           MS. COHEN: Okay. All right. Good.

13           Well, in your remarks, you had referenced a  
14 legislative fix. So I didn't --

15           MR. NANJO: Yeah. I -- I just didn't want to  
16 say you have to do a constitutional. There might be  
17 something that could be legislative. But, again --

18           MS. COHEN: But we just don't know what it is.

19           MR. NANJO: Exactly.

20           MS. COHEN: I understand. All right. That's  
21 fair.

22           Thank you.

23           MR. NANJO: Thank you very much.

24           MS. COHEN: Yes. So next we're going to hear  
25 from the Honorable Jeff Prang, assessor of LA County.

1 Is he coming in remote or in person?

2 MS. TAYLOR: Yeah. Remote.

3 MS. CICHETTI: Remote.

4 MS. COHEN: Remote. Okay.

5 MS. CICHETTI: Thank you, Mr. Moon.

6 Mr. Prang, would you like to please turn your  
7 camera on.

8 MR. PRANG: I'm going to decline to turn my  
9 camera on. I'm driving a car, and I'm not presentable.

10 MS. CICHETTI: Okay.

11 MR. PRANG: But also, your timing was  
12 impeccable. I am just now driving into a place where I  
13 always lose a signal. So if I lose you, you'll have to  
14 forgive me.

15 MS. COHEN: All right. Mr. Prang, take it  
16 away while we still have you.

17 MR. PRANG: Okay.

18 I'm Jeff Prang, LA County assessor.

19 I'm here on behalf of the California  
20 Assessors' Association in my capacity as Chair of the Ad  
21 Hoc Committee -- inaudible -- on matters.

22 I am joined by Brian Donnelly, who is the  
23 Director of Operations for major appraisals from LA  
24 County. He is a subject matter expert on possessory  
25 interest.

1           We are -- the Assessors' Association is very  
2 cognisant of the affordable housing principal --  
3 inaudible -- that there are new innovative and creative  
4 strategies being considered and employed to try to  
5 expedite the development of new affordable housing  
6 opportunities.

7           One thing that we assessors are discovering is  
8 the occasions when these new strategies are --  
9 inaudible -- tactics that the current law does not  
10 anticipate. And that makes it very difficult for  
11 assessors to evaluate and to apply consideration that  
12 would be anticipated with such affordable housing  
13 opportunities.

14           We have sought guidance from the Board of  
15 Equalization. And you're aware of the October 11th  
16 guidance that we received from the Board regarding  
17 possessory interests.

18           There are some assessors who believe that  
19 there are other options that may be available, things  
20 that we are considering. The association just assembled  
21 this committee yesterday to analyze all the different  
22 issues that we're -- that we're in trouble with. We're  
23 going to be meeting over the next couple of months to  
24 see if we can -- inaudible.

25           MS. COHEN: Brian Donnelly, are you also on

1 the line?

2 MR. DONNELLY: Yes, I am.

3 MS. COHEN: Can you pick up?

4 MR. DONNELLY: I can pick up, certainly.

5 MS. COHEN: Thank you.

6 MR. DONNELLY: I can pick up from where Jeff  
7 is heading.

8 I'm Brian Donnelly. I'm Director with LA  
9 County Assessor.

10 And what Jeff was heading towards is we just  
11 finished our CAA meeting just yes -- just this morning  
12 actually, and we did reconstitute our Possessory  
13 Interest Ad Hoc Committee to discuss this very topic.  
14 And we just did that yesterday. We have some counties  
15 assigned to it. And we'll be meeting to talk about it  
16 some more.

17 We really appreciate -- assessors always  
18 appreciate the guidance that the BOE provides, and the  
19 letter from October 11th that was sent out to five of  
20 the assessors and shared with the rest of the CAA  
21 provides a lot of guidance.

22 But as Jeff noted, other counties are thinking  
23 there's other ways to approach this issue, and we'll be  
24 discussing those soon.

25 MS. COHEN: Okay. All right. Got it.

1 Thank you. Thanks for stepping in.

2 MR. DONNELLY: No problem.

3 MS. COHEN: Is there anything else that you  
4 wanted to share with us that Jeff didn't mention?

5 MR. DONNELLY: I think that's the gist of what  
6 Jeff was heading towards on that.

7 MS. COHEN: Okay. Let me see if my colleagues  
8 have questions.

9 No questions on the left?

10 Anything on the right?

11 Nothing on the right.

12 All right. Mr. Donnelly, thank you for  
13 stepping in.

14 And we are going to go to our next speaker,  
15 the Honorable Ernie Dronenburg, who is the assessor from  
16 the County of San Diego.

17 Mr. Dronenburg, are you there?

18 MS. CICHETTI: I don't believe he's on the  
19 line, no.

20 MS. COHEN: Okay. We will move on.

21 We will hear from the Honorable Joaquin Torres  
22 from the city of San Francisco.

23 MR. TORRES: Working on the camera here.

24 MS. COHEN: There you are. We see you.

25 MR. TORRES: Good afternoon. Thank you for



1 the opportunity.

2           Joaquin Torres, Assessor-Recorder, City and  
3 County of San Francisco.

4           I associate myself with the comments of  
5 Jeff Prang and Los Angeles County Assessor's Office.

6           One of the -- one of the questions that we  
7 have that requires some further deliberation on our part  
8 internally with our Mayor's Office of Housing is how  
9 some of the mixed-income developments, specifically in  
10 relationship or proximity to our public housing  
11 developments in San Francisco, could be affected by this  
12 workforce housing that might fall above the AMI  
13 threshold, as currently proposed and written.

14           These are some of the questions that we need  
15 to delve into more specifically.

16           If there is a tax benefit, the general  
17 principle, from my perspective, is that if there's going  
18 to be a tax benefit for a developer to benefit from the  
19 use of an innovative practice to help meet some of our  
20 goals, we want to ensure that the onus does not fall  
21 upon the individuals that we are seeking to serve, and  
22 the application and distribution of a possessory  
23 interest bill that will fall on a low-income person.

24           I say that in California, San Francisco terms.  
25 To ensure that individuals are not adversely impacted

1 when the onus, perhaps, should fall with the developers  
2 themselves, aka, the JPA itself. I think that requires  
3 some more due diligence on our part to determine how  
4 this may affect that AMI level household.

5 A teacher, for example, an entry-level nurse,  
6 for example, a Nurse Practitioner, where would they --  
7 where would they be impacted, and how would they be  
8 impacted based on how these rules eventually play out?

9 There will be additional commentary that we'll  
10 have in writing together with the CAA to present to the  
11 Board in further conversations. But I think that's good  
12 for me for right now, unless there's any questions I can  
13 answer.

14 MS. COHEN: All right. Thank you very much.

15 I was wondering if you had -- you know what,  
16 that's okay.

17 Thank you, Mr. Torres. I appreciate your  
18 presentation.

19 Colleagues, do you have any questions for  
20 Mr. Torres? No?

21 Okay. Thank you.

22 MR. TORRES: If not -- if not, I just have  
23 one --

24 MS. COHEN: Sure.

25 MR. TORRES: Two general considerations that

1 we're going to need more specificity around low-income  
2 housing and public housing to ensure that that is  
3 explicitly codified in statute, or if there's another  
4 method to do that to ensure that we understand where the  
5 thresholds are.

6 We want to explore that area so that we can  
7 exempt those individuals from being impacted from that  
8 possessory interest bill.

9 And then, you know, how do we think about the  
10 next income threshold between the 80 percent and  
11 150 percent AMI. That's that workforce moderate-income  
12 area as well.

13 Again, even though they're existing at a  
14 higher level of income, that's relative. Especially  
15 given where we are in San Francisco.

16 And, again, it begs a larger question of who  
17 are we seeking to benefit here? Who will be harmed?

18 MS. COHEN: Thank you, assessor.

19 You are -- you are -- I think you're on the  
20 right path in raising the question of who's going to  
21 benefit and who's harmed. Most importantly who's  
22 harmed.

23 All right. I don't see any other questions.

24 What -- do you have any parting advice on  
25 defining our challenges and our issues, Mr. Torres?

1           MR. TORRES: No. Just that these are the  
2 issues that we are going to want to delve into more  
3 fully. I think it's really asking to whom does the cost  
4 ultimately rest with.

5           MS. COHEN: Okay.

6           MR. TORRES: And based on the benefits  
7 provided, I want to ensure that both from an operational  
8 perspective, as well as from an equity perspective, that  
9 we are not having individuals who we are ultimately  
10 trying to support be negatively impacted by a bill that  
11 has not been expected by them, that has not been  
12 budgeted for, while others might be in a more favorable  
13 financial position, and, therefore, able to pass that  
14 benefit onto others when they should be assuming it.

15          MS. COHEN: Got it. Thank you.

16          All right. Our next speaker is going to be  
17 Mr. Sean Rawson from Waterford Property Company.

18          Why don't you come on up and have a seat here  
19 behind the microphone.

20          Thanks for joining us again in this chamber.

21          It's good to see you.

22          MR. RAWSON: Good to see you too.

23          MS. COHEN: You may begin when you're ready.

24          MR. RAWSON: Thank you.

25          Thank you, Madam Chair and Board Members.

1 Thank you for inviting me today.

2 My name is Shawn Rawson, and I'm the cofounder  
3 of Waterford Property Company, a California-based  
4 affordable housing developer and investor with over  
5 6,000 units in our portfolio.

6 I had the pleasure of addressing this Board in  
7 July to discuss the compelling merits of an innovative  
8 financing tool that allows affordable housing developers  
9 to partner with the joint powers authority to issue tax  
10 exempt governmental revenue bonds and qualify the  
11 property for tax exemption.

12 To receive the property tax exemption, all  
13 properties are required to have a regulatory agreement  
14 recorded that income restricts rents to ranges between  
15 50 percent and 120 percent of the area median income,  
16 and caps future rents at the lesser of AMI growth, or  
17 four percent.

18 To date, there have been approximately  
19 42 transactions, totalling just over \$8 billion dollars  
20 of new investment to help solve California's affordable  
21 housing crisis.

22 This investment has created over 13,000 units  
23 of new income-restricted housing, and has touched the  
24 lives of over 35,000 tenants.

25 The investors in these projects are the

1 largest municipal bond investors in the world, and are  
2 the same investors that buy the state of California's  
3 bonds.

4 Prior to the JPA structure, municipal bond  
5 investors have never invested in California affordable  
6 housing.

7 If California is serious about solving its  
8 housing crisis, it is essential to have new investment  
9 at a diversity of income categories for new -- to  
10 provide housing for burdened California households.

11 52 percent of California renters are housing  
12 burdened, which means they spend more than 35 percent of  
13 their monthly income on housing.

14 One of the most difficult segments of the  
15 population we provide housing for is the missing middle.  
16 These are individuals that make too much to qualify for  
17 low and very low income housing, that are spending an  
18 inordinate amount of their monthly income on housing.

19 This group is comprised of California's public  
20 safety employees, their teachers, members of labor,  
21 government employees, and nonprofit employees.

22 This segment of the population  
23 disproportionately includes communities of color as  
24 well.

25 Unlike low and very low income housing that

1 has dedicated state and federal funding sources to  
2 provide funding mechanisms for housing production,  
3 there's never been a dedicated funding source to provide  
4 housing for California's missing middle.

5 The JPA financing program was established to  
6 fill this need and create a new funding source that does  
7 not compete for low and very low income housing funding.

8 To date, the success of the program has been  
9 tremendous. In our portfolio alone, which has just over  
10 4,000 units, we're seeing a weighted average discount of  
11 over 20 percent to our tenants. This equates to an  
12 average annual savings of 70 -- excuse me -- 7,800 per  
13 household and \$650 monthly.

14 For families that are making between 48,000  
15 and 110,000, this type of savings is life-changing. As  
16 part of our tenant outreach, we have met with all of our  
17 income-restricted tenants. And I cannot impress upon  
18 you enough how powerful their stories are, and how  
19 thankful they are for this program.

20 A criticism of the JPA program has been that  
21 the public benefit of these communities is not  
22 commensurate with the property tax losses. I can  
23 conclusively state that is not the case.

24 The affordability savings per unit are  
25 significant when compared to the per-unit tax loss.

1 Moreover, at the end of the bond term, once the bonds  
2 are completely paid off, all the residual equity reverts  
3 to the host city and to the taxing agencies.

4 This will result in hundreds of millions of  
5 dollars per asset for local governments. No other form  
6 of affordable housing -- excuse me. No other form of  
7 affordable financing of housing financing provides this  
8 type of equity for local governments.

9 A second criticism of the program has been  
10 that this form of housing is unregulated. This is  
11 incorrect. All projects have a regulatory agreement  
12 that is recorded on title, that locks in the  
13 affordability levels of the asset, and ensures  
14 compliance.

15 In addition, the bonds issued to finance JPA  
16 transactions are social impact bonds, which require ESG  
17 compliance, and compliance with the regulatory  
18 agreement, and all the bond covenants associated.

19 Lastly, a third criticism of the program is  
20 that local governments did not realize what they signed  
21 up for by approving these transactions.

22 This is incorrect. All 42 transactions  
23 required a discretionary approval by their host city  
24 council, which included joining the JPA, and approving  
25 the public benefit agreement, which memorializes the



1 repayment of all property tax lost to the local taxing  
2 agencies, and a distribution of all equity to the local  
3 government.

4 For example, in Los Angeles County, Waterford  
5 is the project administrator on four projects in the  
6 city of Pasadena, totalling just over 1,000 units.

7 The city was so impressed with the  
8 effectiveness of the program and the affordability  
9 levels that they invited us back for multiple projects.

10 In 2021, Assemblymember Ward introduced  
11 AB 1850 to put certain regulatory mechanisms on a  
12 program. The JPA community worked with Assemblymember  
13 Ward and all the bill sponsors to try and craft  
14 legislation that met their goals while still allowing  
15 for the financial feasibility of the projects to move  
16 forward.

17 Unfortunately, after months of negotiations,  
18 that did not happen. AB 1850 ended up dying in  
19 committee. But if the bill would have passed, all JPA  
20 financing would have been completely unfeasible in  
21 perpetuity, effectively ending the program.

22 In closing, I would like to state that I  
23 cannot speak to the legal merits of possessory interest  
24 for tenants in these projects, as I'm not an attorney.

25 Meyers Nave represents all the JPAs in this

1 program, and has written tax opinions on these projects.  
2 Which have been provided to BOE staff.

3           Meyers Nave has made an eloquent argument that  
4 they do not believe that there is a possessory interest  
5 tax associated with these projects.

6           So even though I cannot speak to the legal  
7 merits, what I can speak to is the practical application  
8 for applying possessory interest would be financially  
9 catastrophic to tenants and bond investors in these  
10 projects.

11           As previously stated, there are over 35,000  
12 tenants in all 42 projects. These tenants united and  
13 became -- excuse me -- a unifying force in opposition to  
14 AB 1850, and would not -- and would not be in favor of  
15 possessory interest.

16           Thank you for allowing me to speak today, and  
17 I'm happy to answer all questions.

18           MS. COHEN: All right. Thank you.

19           Are there any points that you read that you  
20 want to re-highlight again that you want us to focus on?

21           MR. RAWSON: Yeah. You know, I think -- I  
22 know the conversation today is based on the legal merits  
23 of possessory interest. And as I mentioned, I'm not an  
24 attorney, but our legal counsel has talked to BOE legal  
25 counsel.

1           What I can say is that from a practical  
2 standpoint, as one of the project administrators of the  
3 program, as I mentioned, we have just over 4,000 units  
4 in the program. The success of this program is  
5 unprecedented.

6           You know, we -- we do traditional affordable  
7 housing development in our state. And I can tell you  
8 that we need more funding coming in to solve the state's  
9 housing crisis.

10           And even though we would love to go to deeper  
11 affordability in some of these projects, the amount of  
12 savings that we're providing families, real families,  
13 and the difference that we're making, I can tell you  
14 that I'm proud to be associated with this program.

15           MS. COHEN: That's good to hear. Thank you.

16           Testament to a small victory.

17           Thank you very much.

18           Okay. Mr. Vazquez.

19           MR. VAZQUEZ: Just a quick question.

20           You just mentioned that you would love to  
21 provide more affordability. What stops you from doing  
22 that?

23           MR. RAWSON: So great question.

24           So I will tell you, this program was set up to  
25 provide affordability for really 60 to 120 percent of

1 the area median income.

2 We do have projects, one in particular where  
3 we went down to 50 percent of the area median income,  
4 all the way up to 120 percent. But the only funding  
5 source that comes into one of these projects is the  
6 property tax abatement.

7 Unlike -- because we do traditional, you know,  
8 tax credit development, where we'll do extremely low  
9 income, low income and low income. And, typically,  
10 we'll get local funding sources. We'll get state tax  
11 credits. We'll get federal tax credits. And then  
12 potentially either, you know, other buckets of funding  
13 through HCD and other state agencies.

14 And these transactions, there's only one  
15 funding source besides the bonds, it's the tax  
16 abatement. So there's only a certain -- it's just a  
17 math equation. There's only a certain level of  
18 affordability that we can go to to still allow these  
19 transaction to be financially feasible.

20 MR. VAZQUEZ: I also hear from some  
21 developers, and maybe you can confirm this, that the  
22 state probably is not helping either, because of the  
23 time that you're sitting on this money that you're  
24 paying interest on while you're waiting for approvals.  
25 Which sometimes goes two, three, four, five years.

1           Is that correct?

2           MR. TORRES: The -- for tax credit projects,  
3 and, you know, state staff, they do a great job. But  
4 there is -- it's heavily impacted.

5           And so, to be clear, so we have a project in  
6 the city of Irvine that's a traditional low and very low  
7 income project that we need state and federal tax  
8 credits. And we need bond approval through CDLAC.

9           And that project, we've been working on it, we  
10 closed on the land in January of 2020. We're hopeful  
11 that we'll get an allocation this round, which would be  
12 by the end of this year.

13           But by the time we build it, you know, we'd be  
14 in 2025. By the time we're leasing it, you know, we're  
15 really in 2026. You're talking about a six-year wind up  
16 to be able to build a --

17           MR. VAZQUEZ: And you're paying interest those  
18 6 years.

19           MR. TORRES: Correct. We bought the land.

20           MR. VAZQUEZ: Yeah, I know.

21           MR. TORRES: So we're carrying the land.

22           So this funding source that we're talking  
23 about here, these are not private activity bonds. So  
24 they do not compete for bond allocation from traditional  
25 affordable housing projects.

1           And so, you know, really, when you think about  
2 it, there's been \$8 billion dollars of additional  
3 investment into California affordable housing that's  
4 additive. It's not taking away from the deeper  
5 affordability levels.

6           And so that's what I really want to harp on is  
7 that to solve our state's housing crisis, we need  
8 investment at all levels. And this is additive funding.  
9 It does not compete for traditional low and very low  
10 income housing. So we don't have the waiting period for  
11 tax credits nor for bond allocation for CDLAC.

12           MR. VAZQUEZ: And streamlining, obviously, at  
13 our end, at the state level, I'm sure would help quite  
14 a bit.

15           MR. RAWSON: Correct.

16           MR. VAZQUEZ: Because if you went from six to,  
17 let's say, three years, that'd be huge.

18           MR. RAWSON: Yes. Whatever we can do to make  
19 the approval process quicker. That's true.

20           MR. VAZQUEZ: Thanks.

21           MS. COHEN: Any other questions?

22           MR. GAINES: If I could.

23           MS. COHEN: Any other questions?

24           Yes, Mr. Gaines.

25           MR. GAINES: Thank you for your presentation.

1 I really appreciate it.

2 I'm just trying to clarify in my mind that in  
3 the event that you got -- if I understand this clearly,  
4 JPA exempted possessory interest. If you were able to  
5 get that approved, you could build dramatically more  
6 affordable units, so you could go lower in terms of the  
7 income median?

8 MR. RAWSON: Absolutely.

9 MR. GAINES: Yeah. Okay. Very well.

10 Thank you.

11 MS. COHEN: Mr. Schaefer.

12 MR. SCHAEFER: Do you have any contact with  
13 Irvine -- do you have any contact with the Irvine  
14 Company who, you know, used to own the whole county I  
15 think?

16 MR. RAWSON: We've done -- yes. We've had  
17 conversations with the Irvine Company, and I know folks  
18 from the Irvine Company.

19 MR. SCHAEFER: Are they supportive of  
20 affordable housing?

21 MR. RAWSON: They are. They're -- we've  
22 actually partnered with them in the past, where we've  
23 essentially developed affordable housing in one of their  
24 master plan communities.

25 MR. SCHAEFER: Thank you.

1 MR. RAWSON: Thank you.

2 MS. COHEN: Anything else? No?

3 Okay. Thank you very much.

4 Is there anything else you want to share with  
5 us?

6 MR. RAWSON: That's it.

7 MS. COHEN: All right. Okay. Thank you.  
8 Thanks for coming up.

9 Ben Barker, are you here?

10 Is he online?

11 MR. BARKER: I'm online.

12 MS. COHEN: Oh, fantastic. All right. It's  
13 nice to see you. I was expecting to see you in the  
14 chamber. I'm surprised that you were so busy and  
15 couldn't come join us.

16 MR. BARKER: I didn't want to bring my kid's  
17 COVID into the chamber. So I elected to isolate myself  
18 here this time.

19 MS. COHEN: Yeah. Good idea to keep that at  
20 home.

21 MR. BARKER: So I do regretfully that I wasn't  
22 able to be there, and I'm keeping the COVID to myself  
23 here.

24 MS. COHEN: Okay.

25 MR. BARKER: So good afternoon.



1           Ben Barker. I'm the Financial Advisor to the  
2 California Municipal Finance Authority, or the CMFA.

3           The CMFA is the largest affordable housing  
4 issuer in the state of California. And the CMFA has  
5 issued over 573 bonds for affordable housing projects.  
6 And, currently, we have about 170-plus projects in our  
7 queue.

8           The current appetite for affordable housing,  
9 just with the CMFA alone, would take up potentially  
10 three years' worth of bond allocation and tax credits.  
11 And, unfortunately, we're limited, because the IRS  
12 dictates the amount of affordable housing that we can  
13 do.

14           So I only lay this out to show that we're  
15 committed to providing affordable housing in the state  
16 of California. And unlike other state agencies, the  
17 CMFA actually has to coordinate with local cities and  
18 counties for public hearings.

19           We coordinate and attend well over 100-plus  
20 cities and counties per year. And this has actually  
21 been very insightful. Because we hear from cities and  
22 counties, and they call us routinely asking if we can  
23 bring middle-income housing projects to their city or  
24 county.

25           We haven't approached anyone on this. It's

1 just, you know, we're asked all the time if there's  
2 anything we can do to bring middle-income projects to  
3 their locals.

4           So in that, you know, when we're going through  
5 the process, I'll skip part of my presentation. Because  
6 Sean went over that. But these offerings, they're all  
7 publicly-offered deals. There's been 42 of them done.  
8 They're publicly offered, and they have thousands of  
9 pages of bond documents that follow a strict federal,  
10 state, and local regulations, and also have very  
11 stringent government oversight.

12           This process has been very transparent and  
13 time-tested, and it ensures accountability. And I think  
14 that's one of the reasons the local cities and counties  
15 have continually come to us and asked for more  
16 middle-income housing.

17           The essential or middle-income housing program  
18 can provide much needed affordable housing to cities and  
19 counties and their residents at much lower costs to  
20 taxpayers, compared to programs using tax credits.  
21 Which provide a huge public subsidy of typically 30 to  
22 70 percent of the project cost.

23           The only subsidy that Sean went over is in the  
24 middle-income housing program is the property tax  
25 exemption. And we do this purposely, so that we're not

1 dipping into the LIHTC or tax credit deals. And we're  
2 not taking subsidy away from those very low income  
3 housing projects.

4 As far as the topics that have been presented  
5 today, I'm not an attorney. But our counsel, Meyers  
6 Nave, has given legal opinions to the public offerings,  
7 and has provided some rebuttals to the most recent  
8 memos.

9 I am an affordable housing practitioner. I've  
10 probably done more affordable housing than, you know, on  
11 par with anybody in the state. So I feel like I can  
12 speak to the public policy in regards to affordable  
13 housing.

14 The CMFA is an owner of seven essential  
15 housing projects or middle-income housing projects. I  
16 believe, like Sean had stated, we really just have a  
17 math issue here.

18 Tax credits -- so tax credit projects have  
19 subsidies from federal, state, local and grants.

20 Middle-income housing projects only have tax  
21 abatements to subsidize the projects. The county tax  
22 assessor's position is to tax the tenants, then we don't  
23 really get any of the that tax abatement, and there's no  
24 more middle-income housing program. There's no way we  
25 can subsidize these units, and we can't provide

1 financing any longer.

2           So I read the BOE memo. I'm concerned from  
3 the parts -- it seems like a little bit standing from  
4 the tax credit and how things have gone. But I do fear  
5 there will be some ramifications that are not  
6 necessarily intended.

7           I believe the San Francisco county assessor  
8 really laid that out. The MIT program and some of these  
9 other programs that are financed by housing authorities  
10 and governmental agencies could have unintended  
11 consequences.

12           But really, my big concern is this program has  
13 gone amazingly well. I know there's a number of callers  
14 that want to speak to the project specific. I just want  
15 to speak to the CMFA deals that we've done. It's gone  
16 much better than anticipated. The biggest drawback  
17 we've really seen is the turnover has not been as quick  
18 as we wanted.

19           But really, the worst public policy I can  
20 think that would come out of this -- all these hearings  
21 is to send tax bills to local -- to residents that live  
22 in governmental housing.

23           I think this would be a huge nightmare. And I  
24 can't imagine the ramifications of sending tax bills to  
25 the residents there.

1           As always, I'm open to conversations about  
2 providing middle-income housing, ways to improve the  
3 program, and really the CMFA doing anything we can do to  
4 help the state in providing affordable housing.

5           Unfortunately, the only mechanisms that I've  
6 seen so far really take away from the tax credit deals  
7 and affordable housing deals, and I believe Mr. Vazquez  
8 kind of hit on that topic, is there is a limit to  
9 affordability that you can do here.

10           And if you want to drop down much lower,  
11 there's all kinds of programs. There are federal,  
12 state, local grants. All kinds of moneys to dip into  
13 that 60 percent below AMI level.

14           And me being, you know, an affordable housing  
15 guy, done 500 of them, I've grown up in affordable  
16 housing. You know, I don't want to dip into the moneys  
17 that are provided to the LIHTC deals. That's why this  
18 program has been established this way. It's really  
19 focussing on the 60 percent, up to 120 percent AMI.

20           The other thing that has been talked about a  
21 little bit is this is -- if you're looking at affordable  
22 housing, there's no way for these people to transition  
23 out of affordable housing into market-rate housing, and  
24 to be able to go into a like unit. So these projects  
25 really provide transition for people to move up at

1 economic scale.

2           The other things that have been talked on is  
3 that through the CMFA program, on each of the projects  
4 that we've done, once the project hits the life and the  
5 bonds have been paid off, the CMFA repays all the lost  
6 property taxes to the cities and counties, and any of  
7 the tax assessors -- or to any of the taxing agencies.

8           And then, unlike other typical affordable  
9 housing projects, these projects will be retained by the  
10 local authority.

11           So Sean Rawson just got up and spoke. After  
12 the bonds are paid off, he doesn't get any of the equity  
13 upside like you would in any other financing mechanism  
14 to finance multifamily housing.

15           After the project's financed and paid off and  
16 all the taxes have been repaid, the project is then --  
17 you're reverted over to the city or county of the host  
18 jurisdiction.

19           And so that's one of the very benefits of this  
20 project that I don't really think is taken into light by  
21 some of the memos that have been put forward, is there  
22 is repayment of taxes. It's delayed. And the benefit  
23 is always to the city or county at the end of the deal.

24           And so with that, I'd be happy to take any  
25 questions. But, you know, thank you for having me once

1 again. And I'm sorry I can't be there in person.

2 MS. COHEN: That's okay, Mr. Barker.

3 Thanks for your presentation.

4 Let me see if my colleagues have any questions  
5 or comments.

6 Yes, Mr. Gaines.

7 MR. GAINES: Thank you for your presentation.

8 You had mentioned that tax revenues are paid  
9 back to the local jurisdiction at the end, I guess, when  
10 the loans are paid off.

11 MR. BARKER: Yeah. So usually the mechanism  
12 of how this works are the bonds are paid off, and really  
13 the project is the city or county. The JPA is just  
14 holding it there for them.

15 The city or county can direct the CMFA to just  
16 sell the project, turn it into a market-rate project.  
17 If they do that, the first -- right off the top, the  
18 proceeds will go back to repaying cities and counties,  
19 or any of taxing agencies that lost taxes.

20 And then all excess funds would go to the city  
21 or county. Or the city can just say, "Hey, you know  
22 what? We want to keep this and turn it into an  
23 affordable project, a LIHTC or tax credit deal."

24 It could be restructured that way. Or the  
25 city or county could just say, "Hey, make this -- redo

1 the financing and turn this into another middle-income  
2 housing project."

3           It's really the local agencies that can direct  
4 the joint powers authorities or governmental agencies on  
5 how -- what outcome they want with this project.

6           And no time in the financing mechanism is the  
7 CMFA or the project sponsors receive some kind of equity  
8 upside in these financing, like you would a regular  
9 market-rate deal, or even a tax credit deal.

10           MR. GAINES: Sure.

11           MR. BARKER: You know, year 15 in the tax  
12 credit deals, they received -- they can sell the  
13 projects, and you can receive cash-out equity. There's  
14 not an opportunity to do this in this mechanism.

15           MR. GAINES: Okay.

16           What is the bonding period? So what would be  
17 that timeframe when the revenue would come back to the  
18 city or the county?

19           MR. BARKER: So at year 15 through -- through  
20 some of the financing documents, the city really  
21 controls the project.

22           The bonds, though, have been typically -- have  
23 had a maturity of 30 to 37 years. So that's been the  
24 typical of the 42 deals that have gone out about that  
25 time.



1           MR. GAINES: Okay. And if you've got the JPA  
2 exempted possessory interest, how many more units could  
3 be built in California? Do you have a sense?

4           MR. BARKER: Well, you know, I think through  
5 this discussion, and we're looking at trying --  
6 everybody is looking frantically at doing new  
7 construction.

8           And so Sean went over new construction through  
9 bond allocation. And like I said, six years, five to  
10 six years, depending on the local, some locals are, you  
11 know, closer to ten years.

12          MR. GAINES: Okay.

13          MR. BARKER: If this mechanism can just  
14 continue to move forward, and we can break this code to  
15 do new construction, you know, there's still -- you have  
16 zoning and permits in process, but the financing can  
17 really -- can actually really be done very quickly.  
18 Within a few months you can get up and running and  
19 create new constructed units.

20          Or, the same thing is, I think the message  
21 that has not been out there is there is these  
22 market-rate projects that have sold to the JPAs, where  
23 we've immediately capped the rents. And I know some of  
24 my project sponsors want to get on and talk about that,  
25 and brag about how well their projects have done that

1 they're managing.

2 But these rents have been discounted, and some  
3 of these \$1,000 compared to the market rate. And so  
4 going out and instead of having these investors come in  
5 and buy a market-rate project, throw a little lipstick  
6 on it, flip it, and jack up the rents.

7 We're doing the same thing. We're buying the  
8 project, rehabbing the project, and we're fixing the  
9 rents so they can't continue to escalate like they would  
10 in San Diego.

11 San Diego has gone up 18 percent this year.  
12 Our projects are fixed and cannot go higher than four  
13 percent in a year. So we're seeing, on some of these  
14 projects, a 14 percent Delta just by this mechanism  
15 alone.

16 MR. GAINES: Okay. With the exemption?

17 MR. BARKER: Yeah. Exactly.

18 MR. GAINES: Yeah. Okay. Great. Thank you.

19 MR. BARKER: Yeah. Thank you for asking.

20 MS. COHEN: Anything on this side?

21 All right. We have no other question for you,  
22 Mr. Barker. Thank you.

23 MR. BARKER: Thank you for your time.

24 MS. COHEN: Of course.

25 All right. That -- I think we should go to

1 public comment.

2 MS. CICHETTI: Okay. Just want to remind  
3 everyone from our announcement at the beginning of the  
4 meeting, if you're going to make a public comment, we  
5 ask that you keep it at a three-minute limit.

6 AT&T moderator, please let us know if there's  
7 anyone on the line who would like to make a public  
8 comment regarding this matter at this time.

9 AT&T MODERATOR: Ladies and gentlemen, if you  
10 haven't already done so, press one, zero to get into the  
11 queue for your public comment.

12 Again, press one, zero.

13 We do have one queued up. This is  
14 Jennifer Ott.

15 Jennifer Ott, please go ahead.

16 MS. OTT: All right. Can you hear me?

17 MS. COHEN: Yes.

18 MS. OTT: Okay. Great.

19 I'm Jennifer Ott. I'm the Assistant City  
20 Manager of the City of Hayward in Alameda County.

21 And we have a JPA project in our city that  
22 provides not only below market-rate rent to over 300 low  
23 or moderate-income households set a cap on rents that  
24 prevents displacement of our residents.

25 For those of you who aren't familiar with

1     Hawyard, we're a predominantly minority community,  
2     84 percent non-white. And the city council not only is  
3     committed to finding innovative ways to address the  
4     housing crisis, but also to create housing stability for  
5     its existing diverse communities.

6             We -- I personally would use this model  
7     carefully, along with our housing staff, and disclose  
8     all of the tax impacts to our council when they decide  
9     to participate in this, that we were well aware and  
10    studied it very carefully. Well aware of the impacts to  
11    our property tax, and we decided to participate in this  
12    innovative solution.

13            I'm here speaking before you, because we were  
14    informed by our county assessor that our -- over 300  
15    households would be receiving a property possessory  
16    interest tax bill, and we are very concerned that they  
17    will be displaced.

18            We not only think that -- not only concerned  
19    about displacement, but concerned that this is  
20    frustrating the state housing crisis, and our ability to  
21    meet set state housing laws and comply with the Housing  
22    Community Development Department. Regional Housing  
23    Needs Allocation is one of the few ways that we've been  
24    able to find to actually meet this need.

25            I am heartened by some of the comments that I

1 hear. And I hope local governments are included in some  
2 of these conversations going forward. I'm happy to  
3 participate in a working group of any kind to try to  
4 find solutions.

5           And I just hope that really that we have those  
6 conversations to find creative solutions to this  
7 before -- and please make sure that we do not displace  
8 tenants in the meantime while, you know, while we can  
9 focus on the weeds. But the forest is that people are  
10 going to be displaced.

11           So I really hope that as we move forward and  
12 have these working groups, I'm happy to participate on  
13 finding creative solutions to figure out the way to  
14 comply with tax law. That it does not come at the  
15 expense of our low-income and diverse residents.

16           Thank you very much.

17           MS. COHEN: Thank you.

18           AT&T MODERATOR: And we have a comment next  
19 from Shaun Bradley.

20           Please go ahead.

21           MR. BRADLEY: Yes. Good afternoon.

22           My name is Shaun Bradley. I'm with HomeFed  
23 Corporation. And we work with CMFA as one of their  
24 sponsors and project administrators in implementing this  
25 program.

1           I think Mr. Rawson did a great job of giving a  
2 comprehensive overview of the mechanics of the program,  
3 and a lot of the statistics to date, and the resounding  
4 success that has been recognized.

5           I'd like to just touch on one example in  
6 particular that we completed around this time last year.  
7 It was the first deal that was put into the program in  
8 the county of San Diego, 519 unit, class B apartments in  
9 Escondido.

10           It was actually just what Mr. Barker had  
11 referenced. It was a property that was purchased and  
12 improved with the sole intent of raising rents for, you  
13 know, an exit at a higher value than they originally  
14 purchased the property for.

15           We were able to step in and buy the property,  
16 and give them their exit. But instead of continuing  
17 forward with their business plan of raising rents on  
18 lease renewals of ten percent on existing residents, or  
19 over 15 percent on new residents, we were able to step  
20 in and immediately provide a public benefit by averaging  
21 a lowered rent of 17 percent across the property.

22           This program was very much appreciated by  
23 existing residents, and has such a demand for future  
24 residents that it currently has a waiting list of 2,200  
25 people. I think that is a true testament to the value

1 of this program. And it really addresses the missing  
2 middle.

3 The missing middle, which has been long  
4 overlooked from a subsidy standpoint. I mean, most of  
5 the -- I know Ben touched on most of the subsidies going  
6 to the lower-income bans, which those projects  
7 notoriously become impacted with very little motivation  
8 for the residents benefitting from those -- at those  
9 properties to do better for themselves, to move on and  
10 move up.

11 This program really facilitates or acts as a  
12 bridge for those lower-income bans properties to  
13 market-rate housing, which has just -- just in the past  
14 year alone, I think California witnessed 20 percent rent  
15 growth. I do not know how the workforce can keep up  
16 with that.

17 So I do really emphasize the merit to this  
18 program, and would like to see it continue. And  
19 certainly appreciate your support.

20 MS. COHEN: Thank you.

21 Are there any other speakers?

22 AT&T MODERATOR: We have a comment next --  
23 yes, ma'am. We have a comment next from Guy Penini.

24 Please go ahead.

25 MR. PENINI: Hi. Thanks for your time.

1 My name is Guy Penini. I'm with BLDG  
2 Partners. We're an owner and operator of affordable  
3 housing across the country, and here in California,  
4 where we help house low and middle-income families and  
5 seniors.

6 We're based in Los Angeles. And so we manage  
7 two middle-income properties under this bond program,  
8 306 units in Orange, California, and 282 units in the  
9 city of Paramount. And it's been our honor to work  
10 closely with CMFA as our JPA with public officials and  
11 community stakeholders to implement this program.

12 And as with people in the communities across  
13 California, our tenants have always faced incredibly  
14 high housing costs that weren't just tough for housing,  
15 but also limited their ability to provide for their  
16 families and plan for their futures.

17 With just about a year of operation under our  
18 belt, I'd like to share just some perspective from the  
19 day to day. And that is really two specifics.

20 One, our communities are essentially 100  
21 percent or 99 percent full with wait lists. And I think  
22 that reflects the success and desirability of this  
23 opportunity and how critical it is.

24 And what's been touched on by some other  
25 comments, our tenants are seeing about 30 to 35 percent



1 relief from market rent.

2 And it's this kind of relief that helps keep  
3 people in their homes, families in their homes in their  
4 communities close to their jobs and schools.

5 And especially in a period where we keep  
6 seeing rising rents in the market, this program really  
7 provides a significant stabilizing force for our cities  
8 and counties.

9 I firmly believe that many of our tenants, who  
10 in many cases have long been residents of these cities,  
11 would have been forced out of the community. And these  
12 are places where they work, where they spend, where they  
13 invest, and where they study. And they would have been  
14 forced to move out of the market because of housing  
15 costs.

16 So I would really like to say that we never  
17 would have been able to provide this program, but for  
18 the innovative bond program that has been implemented  
19 over the last few years. It's a really unique approach  
20 that meets the challenges of a high-cost housing market  
21 here in California.

22 And it also works significantly outside of the  
23 traditional affordable housing finance structures that  
24 we have in the state. And we're able to tap new  
25 investors and new resources, and help preserve

1 California's efforts to help low-income households and  
2 meet the challenge for our middle-income households as  
3 well.

4 Thank you for your time.

5 MS. CICHETTI: AT&T moderator, do we have  
6 anyone else on the line who would like to make a public  
7 comment?

8 AT&T MODERATOR: Yes, ma'am.

9 Our next comment comes from Matt Avital.

10 Please go ahead.

11 MR. AVITAL: Hi, everybody.

12 My name is Matt Avital. I'm the Principal and  
13 Founder of Ascenda Capital.

14 We are an owner, operator, and developer of  
15 affordable housing nationwide. We own and operate about  
16 9,000 units right now. We are the project administrator  
17 for Latitude 33 Apartments in Escondido.

18 And, again, I -- as Shaun mentioned, I also am  
19 not an attorney, and cannot speak on the, you know, the  
20 mechanics or, you know, the legal merit of possessory  
21 interest. But I can tell you from a practical  
22 standpoint our story, a little bit about our project.

23 We helped CMFA facilitate the purchase of  
24 Latitude 33, the 198-unit class A community.

25 This was a property in which the previous

1 owner was raising rents ten percent per the emergency  
2 order. But if they could, they would have raised rents  
3 30 percent.

4           Once we took over, we met a lot of tenants and  
5 heard a lot of stories of tenants that were actually  
6 planning on moving because they were rent burdened so  
7 much, and they thought they were getting a rent  
8 increase. They ended up qualifying for one of our  
9 income qualifications to your 80, 100, 120, and we  
10 actually reduced their rent.

11           So it's been really cool to be a part of this  
12 program that really impacts people's lives. And I think  
13 a possessory interest to these tenants would really be  
14 detrimental after getting the good news from us that  
15 their rents are going down. Now having a tax that they  
16 have to pay will really hurt them and impact them.

17           So we think this is a great program. We want  
18 to see it continue, and hopefully a decision made to  
19 prevent that from happening.

20           Thank you.

21           MS. COHEN: Thank you.

22           MS. CICHETTI: Do we have anyone else on  
23 the --

24           AT&T MODERATOR: We have no additional  
25 comments in queue.

1 MS. COHEN: All right. Thank you.

2 So public comment is over. And as you can  
3 see, this is just the beginning of a much-needed  
4 conversation and dialogue.

5 I just wanted to highlight my intent again  
6 that before our next meeting, I'm going to be meeting  
7 with the Executive Director, the leadership of the CAA,  
8 to determine options that we may consider to explore  
9 further.

10 As I stated in my opening remarks, we also may  
11 want to consider convening an interested parties  
12 process, so that there's transparency on this, and so  
13 that we're able to get everyone that's interested in  
14 discussing this topic to the table, and explore a  
15 legislative solution.

16 Also maybe provide guidance, and simply allow  
17 other issues to further develop and determine a pathway  
18 forward.

19 Unfortunately, we don't have a lot of time --  
20 much more time today to dive into this issue. But we  
21 will be mindful of the associated challenges and  
22 opportunities around this matter.

23 So, again, thanks for listening.

24 Thank you to everyone that participated.

25 I appreciate the public comments that called

1 in.

2 And also, colleagues, if you have any further  
3 questions or comments, we can take them now. If not,  
4 we're going to keep moving.

5 Mr. Gaines, do you have something?

6 MR. GAINES: Share comments at the end.

7 MS. COHEN: Right. Okay.

8 Okay. Great.

9 Ms. Cichetti, let's call the next item,  
10 please.

11 MS. CICHETTI: The next item -- could we take  
12 a quick five-minute break for the staff?

13 MS. COHEN: Oh, sure. Of course. We'll take  
14 a 5-minute break. Yes.

15 MS. CICHETTI: Thank you.

16 MS. COHEN: It's 3:15 now.

17 (Whereupon a break was taken.)

18 MS. COHEN: Let's get started. We only have a  
19 few more items to go.

20 Ms. Cichetti, where did we leave off on the --  
21 where did we leave off on the agenda?

22 MS. CICHETTI: We're gonna go back to the  
23 L items.

24 MS. COHEN: Yes, the L items.

25

**ITEM L1a**

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MS. CICHETTI: Item L, Board Member Requested Matters, L1a.

MS. COHEN: Yes.

MS. CICHETTI: New Matters.

MS. COHEN: Yes. L1a, New Matters.

And so, Mr. Gaines, this is where we will hear the report from your assessor meetings.

And we will start. And then also want to let you know we are pulling off the agenda L2a and L3a.

Are we all on the same page, Ms. Cichetti?

Does that sound right to you?

MS. CICHETTI: That you've announced L2a is off, and L3a was removed yesterday.

MS. COHEN: That's right.

So let's get through L1a.

And go ahead.

MS. CICHETTI: Report from Each Board Member on their District County Assessors Meeting Held During the Annual Meeting of the Board of Equalization and the County Assessors.

Issues raised and possible recommendations for each District's County Assessors during the meeting.

MS. COHEN: All right.

1           Bear with me, I'm trying to get to my notes.

2           Okay. So at this time, I want to just  
3 publicly report out on the District Two breakout  
4 sessions during the 2022 annual meeting for the Board of  
5 Equalization and the County Assessors' Association  
6 county assessors held on October 19th, 2022.

7           Deputy Controller Stowers made the suggestion  
8 last year to provide an opportunity for public  
9 stakeholders in our entire Board to learn more about  
10 priority issues facing each district.

11           Smart. Because it allows us to consider the  
12 role of the Board in its entirety when we're making and  
13 addressing priorities.

14           So while the concerns raised by our respective  
15 assessors may not be universal to each and every county,  
16 I also believe that if its prudent to publicly present  
17 them, present their respective reports, so that we all  
18 know what's going on.

19           So I want to know what's going on in the rural  
20 counties that Gaines represents, and as well as the rest  
21 of you throughout the entire state of California.

22           It's possible that some of the issues that are  
23 raised in our respective break-out meetings are also  
24 issues faced by other counties and other county  
25 assessors' offices in other equalization districts.

1           So this is the best vehicle that we have to  
2 bring these issues to light to provide us an opportunity  
3 to ensure that the tax administration practices continue  
4 to result in a statewide guidance, as well as service to  
5 all 58 county assessors.

6           So with that said, I'll begin my presentation.  
7 I provided you all a memo -- a memorandum that provides  
8 background on my report out this afternoon.

9           And at the Board of Equalization second  
10 district break-out session on our annual meeting, the  
11 assessors expressed interest in pursuing new proposals  
12 to address ongoing challenges that impact the property  
13 tax administration in their office.

14           And also we had some dialogue around  
15 continuing to work on previously raised issues that  
16 still remain outstanding.

17           So where I want to begin is by highlighting  
18 the new issues that were raised. Okay. First,  
19 effectively managing the future of work. So as you are  
20 aware, the pandemic put us in a position to examine in  
21 realtime the viability of remote work to ensure the  
22 continuity of government services.

23           And as a result, government realized that the  
24 many benefits associated with remote work, and that  
25 includes work/life balance, commute miles saved,



1 emissions reductions, and business-related cost savings.

2 Government also acknowledged challenges  
3 associated with leading a remote work environment and  
4 providing realtime supervision, mentoring, coaching and  
5 support for our workforce.

6 It's been suggested that the BOE explore  
7 training opportunities to assist local county assessors,  
8 BOE leadership and mid-level management in fostering  
9 remote work environments that will promote an engaged  
10 workforce with measurable productivity and  
11 high-performance teams.

12 The second point that is new was we heard a  
13 request to partner with the Board and the agency to  
14 ensure that the agency has sufficient staffing and  
15 resources to carry out its role and responsibilities.

16 And so what do I mean by that?

17 Well, since the passage of AB 102, the Second  
18 District assessors acknowledged that the agency doesn't  
19 have the staffing and the resources that they need to  
20 operate at an optimal capacity.

21 And so a suggestion has come through that the  
22 agency identify its staffing and resource gaps, and also  
23 acknowledge that the California Assessors' Association  
24 will partner with the Board and the Legislature to  
25 ensure that the BOE, the agency, has the resources that

1 it needs to constitutionally carry out -- or carry out  
2 its constitutionally-mandated roles.

3 Of course we welcome any kind of partnership,  
4 acknowledging that this specific partnership would be  
5 aligned with our own strategic plan.

6 Two additional issues that were raised but  
7 that are not new that I will just briefly touch on is,  
8 first, recruitment pipeline development and leadership  
9 training.

10 We know about that. We know that we're moving  
11 forward. Lisa Renati is doing a fantastic job in  
12 helping us get there.

13 And then the second point is to ensure that  
14 the financial technology system, technology investment  
15 by the administration and the Legislature is properly  
16 executed to benefit all counties and -- and to benefit  
17 all counties.

18 So we just want to make sure our technological  
19 investments are on par.

20 You guys may remember that last year we worked  
21 with Director Fleming to partner with the association to  
22 ensure that the -- the enhanced funding for the state  
23 supplementation for county assessors program.

24 This is a widely-regarded program that really  
25 benefited a lot of counties, particularly the rural

1 counties, in getting them the resources that they need  
2 to help with backlog, to help with technology  
3 improvements.

4 So you are also aware that this most recent  
5 budget included a \$30 million dollar technology  
6 investment over three years to local county assessors to  
7 assist them in performing property assessment.

8 And that is it in terms of a high-level report  
9 out. If you have any specific questions, you can  
10 contact me in the office, and we can work with you one  
11 on one if you want a more detailed report.

12 But just in the essence of time, I want to  
13 give some time to Mike Schaefer to report out.

14 Then we will hear from Mr. Gaines, and then  
15 we'll hear from Mr. Vazquez.

16 Mr. Schaefer, anything you want to share?

17 MR. SCHAEFER: Well, I just want to say  
18 District Four is alive and well.

19 I've had the chance to meet with my assessors,  
20 of which we have five.

21 Ernie Dronenburg, who is the icon, who is  
22 retiring, he is succeeded by Jordan Marks who just won  
23 the election for assessor. And Jordan shared with me  
24 today some of the activities. That Amazon has invested  
25 millions of dollars in buying border property. That's

1 property in San Diego County that is on the Mexican  
2 border. And they're finding a lot of warehouse  
3 development down there. So there's a lot of new  
4 challenges and valuation challenges.

5 And Jordan Marks brings decades of devoted  
6 public service in his background to the office.

7 Claude Parrish and his wife Noel were at the  
8 conference yesterday and had a nice visit. I talked to  
9 some of Claude's constituents, and they're very  
10 impressed at how attentive he is and how knowledgeable  
11 he is. And he's a great credit to the assessment  
12 business that we're all in.

13 I saw my Riverside guy, Peter Aldana, who is a  
14 career guy like so many of our people, and doing a very  
15 good job in Riverside County.

16 Robert Menvielle, who comes to us from the  
17 furthest distance away, because he's out in El Centro  
18 and Brawley. He has a couple big social events, the  
19 kettle call the end of the year, the carrot festival in,  
20 I think in February. And I try to get down to those  
21 events so I can meet some of the people he works with.

22 And it's an unusual economy he has. He has a  
23 JCPenney's store. But I think 75 percent of the  
24 customers come from Mexico. Because there's a million  
25 people living right next door. And they come over and

1 keep the economy healthy in El Centro.

2 And he just won his election in the primary.  
3 And he and his family have been around for decades in  
4 Imperial Valley. So they're really excellent people to  
5 have the public trust as the public could give them.

6 And we know we lost Bob Denton. And we're so  
7 sorry to lose him this last year. He's been replaced by  
8 Christopher Wilhite, who is the new assessor in San  
9 Bernardino County. And I haven't had a chance to really  
10 meet with him. And he's new at the job, too. But I'm  
11 going to make an effort in the coming year to spend more  
12 time with him to see how I can help him do a better job.

13 Thank you very much.

14 MS. COHEN: Great. Thank you.

15 Mr. Gaines.

16 MR. GAINES: Yes. Great. Thank you.

17 We had a wonderful meeting with my assessors  
18 in District One. And so I just wanted to take this  
19 opportunity to thank my assessors who were able to  
20 participate this year.

21 And to take a second once again to honor the  
22 retiring assessors in my district and to welcome the new  
23 ones. They're a wealth of knowledge and insight, and  
24 our meeting proved that once again.

25 This year my assessors focussed on Prop. 19

1 implementation, but also on the law itself, and how its  
2 affecting rural counties.

3 They noted a migration is occurring from  
4 cities to more rural areas. And they are accepting a  
5 great number of base year value transfers.

6 And they worry about education funding in  
7 these areas that could be diminished as a result.

8 I'm not sure this is adequately contemplated  
9 by Prop. 19 factors, and it bears watching.

10 It's early, but I also want to ensure that  
11 small rural counties are not paying an unfair price when  
12 it comes to Prop. 19.

13 In addition to the discussion about the  
14 affects of Prop. 19, at least one of my assessors noted  
15 that administration of the initiative would be to look  
16 at improving our state forms. If state forms could be  
17 standardized, it would make it much more easier for my  
18 counties to satisfy the requirements of Prop. 19.

19 The -- in this particular case, the assessor  
20 asked that the BOE provide more guidance on how to  
21 adequately report on Prop. 19 information.

22 We had a lengthy discussion on Prop. 8  
23 property tax reductions and how difficult they have  
24 proven to be, especially for rural counties that lack  
25 the manpower to do the downward reassessments or upward

1 revisions.

2           There is still outstanding Prop. 8 properties  
3 with assessors in my district. And if real estate  
4 values are declining, we're going to be dealing with  
5 that again. We'll have to see what happens with the  
6 economy.

7           Larger counties can use algorithms to  
8 mass-appraise. But smaller counties don't have tract  
9 homes, for example. That lends themselves to standard  
10 appraisals. It's difficult for them to use algorithm  
11 appraisals. This leads to tremendous backlogs in  
12 smaller counties, and that does not serve taxpayers  
13 well.

14           Lastly, you all know that I'm interested in  
15 the BOE staffing levels and county assessor staffing  
16 levels. We can't fulfill our obligations to taxpayers  
17 with an empty desk.

18           With that in mind, we discussed recruitment  
19 and retention, especially as it relates to the  
20 auditor-appraiser position.

21           The auditors wanted to ease up the  
22 requirements for the auditor-appraiser position. Too  
23 many people are failing the test. And, therefore,  
24 they're unable to recruit.

25           They would like to develop an alternative

1 program that would bring people into the profession.  
2 Once the assessor offices -- once in the assessor  
3 offices, these new recruits could more adequately  
4 determine what skill sets they need to learn, and that  
5 training could take place.

6 In light of the difficulty that assessors have  
7 in fully staffing their offices, I think we should be  
8 looking at alternative paths to help ensure offices have  
9 the personnel needed to serve taxpayers.

10 And I'd sure like the Board to take a look at  
11 that in terms of the auditor-appraiser position. If we  
12 could have a little easing on some of those  
13 requirements, where they could at least bring them into  
14 their local assessor office, and then put them through  
15 some sort of training regimen.

16 We do so well, I think, in providing the  
17 educational classes through the BOE. But maybe we could  
18 fine-tune it a little bit, so that we can address this  
19 labor shortage issue.

20 So thank you so much. Appreciate it.

21 MS. COHEN: Thank you.

22 Let's hear from Mr. Vazquez.

23 MR. VAZQUEZ: Thank you, Chair Cohen, for your  
24 report, and from my other colleagues as well who raised  
25 assessors in their respective districts.



1           I reaffirmed my prior agreement to the  
2           accomplishments of the items you mentioned, in  
3           partnership with other members, from the Executive  
4           Director and our assessors.

5           I think the appraisers recruitment and  
6           development issue is still a critical concern in almost  
7           every county. And that our Workforce Planning Work  
8           Group could reconvene early next year to begin tackling  
9           some components of it, including the implementation of  
10          technology that would advance remote work capabilities.

11          I look forward to advancing towards some of  
12          these solutions in 2023.

13          For the Los Angeles County assessor who raised  
14          two major issues at my meeting, both of which are  
15          centered around the affordable housing issue, the first  
16          was -- the first issue was whether Section 402.1 applies  
17          to low-income properties that are restricted under  
18          rent-controlled ordinances by local governments.

19          The Los Angeles County and its many cities  
20          have stringent rent-control laws that restrict the  
21          amount of rent that can be changed for leasing of  
22          properties, especially low-income housing properties.

23          The assessor is looking to the Board for clear  
24          guidance on what is considered restricted, and to what  
25          extent the assessment should be, based on the restricted

1 rent, rather than the market rent.

2 This issue also raises several speakers in our  
3 working group meetings. And in looking at Mr. Nanjo's  
4 report or letter that he presented to us that I was  
5 looking at yesterday, that was very helpful.

6 But I have a question -- I guess a concern or  
7 question, just for clarification. The basic question  
8 is, in the RTC 402.1, is that applicable to properties  
9 legally restricted or subject to rent controlled by city  
10 ordinances?

11 Your conclusion is yes. You state that if the  
12 restrictions put in place by city ordinance stop the  
13 owner from realizing the full market rent for the  
14 property, the assessor should consider the effect of the  
15 ordinance restrictions on rent control -- or on rent and  
16 use, actual rent, and determining the fair market value,  
17 unless restrictions is rebutted.

18 Is that true?

19 And I guess while you're coming up, what does  
20 rebutting the restrictions mean?

21 MR. NANJO: So thank you very much for that  
22 question, Member Vazquez.

23 Chair Cohen, Vice Chair Schaefer, Honorable  
24 Members of the Board, basically, as I kind of indicated,  
25 this, too, is not as simple as one would think.

1           Generally, the conclusion is correct, yes,  
2 they should take that into consideration. But it's a  
3 rebuttable presumption. So depending on what other  
4 facts are brought to light to the assessor, the assessor  
5 has discretion of taking those other things into  
6 consideration. And it may change whether or not the  
7 amount or to the extent those things are taken into  
8 account.

9           MR. VAZQUEZ: So would it be fair to say that  
10 we can provide guidance, let's say, for example, to my  
11 one assessor now, Jeff Prang, that it's pretty much he  
12 has discretion on this?

13           Because right now he's kind of throwing it  
14 back, or at least in the discussions we had after our  
15 meeting last month, he was making it sound like his  
16 hands are tied unless we give him guidance.

17           MR. NANJO: I think we've given him plenty of  
18 guidance.

19           MR. VAZQUEZ: I thought we did.

20           MR. NANJO: If I could ask Mr. Yeung to join  
21 me up here.

22           Sorry, Dave.

23           Again, there are always new situations that  
24 are brought to light. But I think Dave and my staff are  
25 pretty open to talking directly with the assessor's

1 office and providing guidance.

2 But we have plenty of guidance already, right,  
3 Dave?

4 MR. YEUNG: We -- we do have guidance out  
5 there. We have it in our annotations. We have it in  
6 our -- we have it in some of our handbooks.

7 But if -- I had the opportunity to talk to  
8 some of the staff from LA County just yesterday. If  
9 there are any fact patterns they want to truly lay out  
10 for us, we'd be more than happy to meet with them and  
11 talk with them directly.

12 MR. VAZQUEZ: I'd appreciate it.

13 Yeah. Because it just so happens, the one  
14 incident that you're probably aware of that he's raising  
15 is with one of the developers that seems to be buying up  
16 some of these old buildings in downtown LA. And it  
17 looks like he's going to continue to do it. And he  
18 keeps hitting that one snag on that issue.

19 And he's -- he's -- but Jeff, or the assessor,  
20 is still taxing them as if they were market-rate units,  
21 and they're not. And he's being penalized for it, I  
22 guess.

23 MR. YEUNG: Yeah. So the fact patterns are,  
24 there are some nuances there, and they're pretty  
25 complex.

1 MR. VAZQUEZ: Okay.

2 MR. YEUNG: But we'd be more than happy to  
3 have a direct conversation.

4 MR. VAZQUEZ: I'll let him know. Appreciate  
5 it.

6 MR. YEUNG: Of course.

7 MR. NANJO: Yes. Absolutely. Thank you.

8 MR. VAZQUEZ: The other item I had that we've  
9 kind of delved into.

10 And I think, Madam Chair, you kind of hit it  
11 on the nail, I think we need to continue this on this  
12 whole possessory interest. So I'll hold off on that  
13 one.

14 MS. COHEN: Okay. Let's take public comment.

15 MS. CICHETTI: AT&T moderator, can you please  
16 let us know if there is anyone on the line who would  
17 like to make a public comment regarding this matter?

18 AT&T MODERATOR: Of course.

19 Ladies and gentlemen, if you wish to make a  
20 public comment on this matter, please press one, then  
21 zero.

22 There is currently no one in the queue.

23 MS. COHEN: Okay. Great.

24 MS. CICHETTI: Thank you.

25 MS. COHEN: Thank you.

1                   Let's keep going. Next item.

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3   **ITEM M1**

4

5                   MS. CICHETTI: Next item on the agenda is M,  
6 Public Policy Hearing; M1, Proposition 19  
7 Implementation.

8                   There are no planned staff reports or external  
9 speakers for this agenda item for this month's meeting.

10                  MS. COHEN: Okay.

11                  MS. CICHETTI: However, persons who wish to  
12 address the Board on this topic as a public comment may  
13 do so.

14                  AT&T moderator, can you please tell us if  
15 there is anyone on the line who would like to make a  
16 public comment regarding this matter?

17                  AT&T MODERATOR: Of course.

18                  Ladies and gentlemen, once again, if you wish  
19 to make a public comment, please press one, then zero.

20                  And there's currently no one in the queue.

21                  MS. CICHETTI: Thank you.

22                  Hearing no comments, I guess we'll close this  
23 public hearing.

24                  MS. COHEN: Yes, please.

25                  MS. CICHETTI: We'll go to the next item,

1 which is M2.

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**ITEM M2**

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5 MS. CICHETTI: M, Public Policy Hearing; M2,  
6 Impact of Public Calamities on Property Tax  
7 Administration: County Boards of Equalization/Assessment  
8 Appeal Boards, AAB, Remote Hearings.

9 There are no planned staff reports or external  
10 speakers for this agenda item for this month's meeting;  
11 however, persons who wish to address the Board on this  
12 topic, may do so.

13 AT&T moderator, is there anyone on the line  
14 who would like to make a public comment regarding this  
15 matter?

16 AT&T MODERATOR: Ladies and gentlemen, once  
17 again, if you wish to make a public comment, please  
18 press one, then zero.

19 And there's currently no one in the queue at  
20 this time.

21 MS. COHEN: Okay. Thank you.

22 MS. CICHETTI: That will close this public  
23 policy hearing.

24

25

1 ITEM N

2  
3 The next item on the agenda is N, Public  
4 Comments on Matters Not on the Agenda.

5 Persons who wish to address the Board of  
6 Equalization regarding items not on the agenda may do so  
7 under this item on the agenda.

8 Please note that the Board cannot take action  
9 on items not on the agenda; however, the Board can  
10 schedule issues raised by public for consideration at a  
11 future meeting.

12 AT&T moderator, can you please let us know if  
13 there's anyone on the line who would like to make a  
14 public comment at this time?

15 AT&T MODERATOR: Of course.

16 Once again, ladies and gentlemen, if you wish  
17 to make a public comment, please press one, then zero.

18 And there is currently no one in the queue.

19 MS. CICHETTI: Thank you.

20 That closes our public comments for the day.

21 And the last item is closing remarks.

22 MS. COHEN: All right. Thank you.

23 So I'd just like to adjourn this meeting in  
24 memory of the former Executive Director, Brenda  
25 Fleming's, father, Mr. Donald Joiner.



1                   And I think we have closing remarks.

2                   Mr. Gaines, do you have anything?

3                   MR. GAINES: I already said mine.

4                   MS. COHEN: You said your part?

5                   MR. GAINES: Yeah. Thank you.

6                   MS. COHEN: Okay. All right.

7                   MR. VAZQUEZ: The only one I would add is,  
8 before you read those, is just in my district, the Mayor  
9 of Santa Monica, Sue Himmelrich, lost her mom, who had  
10 been struggling with cancer. And it happened between  
11 our meetings here. So I just wanted to also close in  
12 adjournment of her mom.

13                   MS. COHEN: Okay.

14                   Well, ladies and gentlemen, thank you for your  
15 service to the state of California. And I believe this  
16 meeting is now adjourned.

17                   Thank you.

18                   (Whereupon the meeting adjourned.)

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REPORTER'S CERTIFICATE

State of California )  
 ) ss  
County of Sacramento )

I, Jillian Sumner, Hearing Reporter for the California State Board of Equalization, certify that on November 17th, 2022, I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 234 constitute a complete and accurate transcription of the shorthand writing.

Dated: December 2, 2022

  
\_\_\_\_\_  
JILLIAN SUMNER, CSR #13619  
Hearing Reporter