

**Draft Minutes  
Governing Board Meeting  
April 2, 2008**

**CALL TO ORDER AND ATTENDANCE:**

Secretary Joan Wagon called the meeting to order at 8:05 am on April 2, 2008. All members were present and voting except Rhode Island.

**MINUTES:**

A motion to accept the minutes from December 2007 was made by Delegate John Doyle with the correction of the spelling of Mr. William Riesenberger. The minutes were approved on a voice vote.

**REPORT OF APRIL 1 CONGRESSIONAL MEETINGS:**

Secretary Wagon reported that Governing Board and Advisor States delegates met with sixty Congressional offices to discuss Streamline. Each delegate gave a brief report on their meetings.

Secretary Wagon stated that it is critical to know which members of Congress are interested in cosponsoring or supporting the bill. She said that everyone she talked to felt it was important to lobby. She said future meetings would be scheduled to better partner with the business community. Senator Cook stated that Senator Dorgan asked what the business community thought of SST and that it is important to show the support from Business Advisory Council and the business community.

Secretary Wagon explained the briefings given to Congressional staff. She said Charles Collins and Wayne Zakrzewski did a great job in bringing it home.

**EXECUTIVE DIRECTOR'S REPORT:**

Mr. Scott Peterson explained his activity recruiting more states. He said that it included speaking to legislators at NCSL meetings, the NCSL sponsored Streamline Academy, and trips to Florida. He also reported on several conversations and emails with different folks in Hawaii. He said Hawaii took an unusual approach to the cost of implementation and it seemed there was a misunderstanding.

**TREASURERS REPORT:**

Mr. Bob Cox explained the Board's fiscal condition. He reported that expenses were running below projections. The board accepted the FY08 Report on a voice vote.

**EXECUTIVE COMMITTEE REPORT:**

Secretary Wagon reported that the Executive Committee discussed the CSP contract and the state of New Jersey's compliance in their closed session. She said they met with the CSPs and the CSP candidate. She said the Executive Committee would have a draft of the contract to the CSPs by May 1 and would complete discussions in time to sign the new contracts by May 31, 2008.

Secretary Wagon said the Executive Committee recommends that the Governing Board send a letter to elected officials in New Jersey explaining that their compliance is in question, that the Compliance Review and Interpretations Committee hold a hearing in May for New Jersey to explain their status, and for the Compliance Review and Interpretations Committee to make a recommendation to the Governing Board concerning New Jersey's compliance.

Mr. Steve Kranz stated that the business community agrees with the need for due process, but cautioned against due process that takes so long the Governing Board is unable to reach a conclusion until fall. He stated that the Governing Board should make a decision today and let New Jersey appeal. Commissioner Jerry Johnson explained that no one had submitted a petition that New Jersey is out of compliance. Secretary Wagon agreed with Mr. Kranz about the timing and moved that the deadlines in Rule 904 be suspended. That motion was approved on a voice vote, with New Jersey abstaining.

Secretary Wagon moved that a letter be sent to New Jersey and that the Compliance Review and Interpretations Committee hold a hearing on New Jersey's compliance. That motion was approved on a voice vote with New Jersey abstaining.

Secretary Wagon stated that the Executive Committee would work on sanctions and New Jersey's compliance would be on the Governing Board's June agenda.

**CERTIFICATION COMMITTEE REPORT:**

Mr. Gary Centlivre reported that the committee has recommended that all the current CSP's be recertified and that Speedtax, Inc. be certified as a new CSP.

**AUDIT COMMITTEE:**

Mr. Bruce Christensen reported that the Audit Committee had put off defining good faith until there is a need for it. He further explained that the committee has developed an alternative solution to the Performance Bond/Security Requirement in the current CSP contract. He said the committee is also working on possible changes to appendix F, the Executive Director Contract Monitoring Program, and the requirements of a CAS and Model II Seller.

**LOCAL GOVERNMENT SEMINAR:**

Mike Bailey explained that Harley Duncan gave the history of Streamline at their meeting.

**STATE AND LOCAL ADVISORY COUNCIL:**

Ms. Sherry Harrell explained their work on direct mail, florist sales, sales price, software maintenance contracts, purchaser issues and credits. She said there have been several questions on sourcing and recommend the white paper on this topic be drafted into a rule. Commissioner Jerry Johnson stated that SLAC should look into the sourcing issue in Section 310.1 C7 that came up at the last meeting.

Ms. Harrell moved to withdraw RP07011, RP07008A02, and RP07016. The motion was approved on a voice vote.

**BUSINESS ADVISORY COUNCIL:**

Mr. Kranz reported that the Business Advisory Council (BAC) discussed what they consider to be an inconsistency in the interpretation of Section 901. He said the BAC doesn't think it allows the State and Local Advisory Council to introduce amendments. He asked that they not introduce any more amendments or that Section 901 be amended to allow both councils to introduce amendments. He also said BAC would send a formal letter explaining that they would like to see the Governing Board give more scrutiny to state compliance. He said the BAC found compliance issues with Arkansas and Nevada. Mr. Dino DiCianno and Mr. Tom Atchley explained that both states believe they are in compliance.

**PUBLIC COMMENT REGARDING DIRECT MAIL:**

Ms. Kristine Magill explained it was the BAC's intent to narrow this to two issues: business correspondence and direct mail delivery charges.

Ms. Magill explained that AM07034A01 might be a better way to word section to 313, but that depended upon the breadth of the business correspondence interpretation. She asked if the CRIC could provide some clarity to this interpretation in order to insure that the proposed substitute amendment AM07034A02 is correct.

In response to a question from Secretary Wagon about AM07009, Mr. Wayne Zakrzewski explained the goal was to eliminate the business correspondence issue.

Ms. Kathy Neggars stated that a lot of progress had been made, but GE doesn't support voting on this at this meeting to make sure the solution works.

Ms. Magill explained that delivery charges is the number one direct mail issue. She said the BAC was trying to draft a proposal to keep the status quo so that future states can maintain their positions on direct mail without having to enact the toggle. Mr. Zakrzewski stated this could be accomplished by adding language to the definition of sales price.

**DIRECT MAIL SLAC:**

Ms. Ellen Thompson explained that AM07034A01 was an attempt to narrow what gets sourced. She explained the amendment and the accompanying rule.

Ms. Judy Niccum stated AM07033 addressed delivery charges. She explained that the definitions for delivery charges are broad to include all the items that need to be included. She said the amendment would move the definition of direct mail from the library of definitions as a stand alone definition and insert it into the definition of delivery charges. Ms. Niccum explained that rule RP07017A01 accompanied the amendment.

Ms. Magill explained that the BAC was looking for a simpler version of AM07034A01 as it includes both direct mail and business correspondence. She stated that the BAC's proposal would not require as much change to the SSUTA.

Commissioner Jerry Johnson stated that he is not prepared to vote on this issue today and asked if they could be deferred or stricken from the agenda. Ms. Harrell stated that she had no problem striking all of these from the agenda and resubmitting them for the next meeting however, the resubmissions will look very similar to what they have now.

Mr. Kranz suggested that all amendments be stricken in order to reduce the documents on this issue.

Commissioner Bruce Johnson stated that there is a reason there is a two vote rule and if we vote on them knowing that they can be changed, it will defeat the purpose. Both votes need to be on the same material.

Mr. Dobson stated that Kentucky was ready to vote for the amendments proposed by SLAC, however if there was a vote it would most likely still require two more votes as the proposal needed significant changes.

**COMMENTS FROM THE NAVAJO NATION:**

Mary Etsitty, Executive Director of the Office of the Navajo Tax Commission, and Amy Alderman gave a presentation explaining the tax system of the Navajo Nation. They expressed their opinion that the Navajo Nation is interested in the work of Streamline.

**WASHINGTON DIRECT MAIL AMENDMENT:**

Representative Hunter moved to approve the substitute amendment AM08002A02. He explained that this amendment simplifies direct mail sourcing without affecting anyone negatively. Mr. Alan Lynn explained that the Washington amendment provides an election for origin-based direct mail sourcing.

Ms. Magill reported that the Washington proposal included components the BAC felt could work in a broader approach to the direct mail issue. Mr. Nebergall asked if section B sourced to the origin and what was the seller's responsibility to another state in regards to items shipped to another state. Mr. Lynn explained that section B says the seller would not collect tax in the ship-from state and it would depend on the law in the destination state what was required of the seller.

Mr. Dobson asked if adding another component to the direct mail discussion and getting away from the original approach was simplification. Mr. Brubaker said that he understands concerns about adding more components but believes it will happen over time.

In response to a question from Ms. Mary Cameron about the last sentence in section B, Commissioner Jerry Johnson felt that the last sentence does not conflict with Section A. He said this is time sensitive and it is appropriate to take action today.

Ms. Harrell said she appreciates Ms. Magill's interest in sending this to SLAC, but it didn't hurt to vote on something we have already done.

Representative Hunter closed saying that this is a relatively narrow carve-out on a problem that needs a solution. He said they are trying to make sense of intrastate concerns in a way that does not impact other states.

The motion to approve AM08002A02 failed on a roll call vote with eleven voting yes (IN, KS, MI, NV, NJ, NC, ND, OK, SD, WV, and WY) and five voting no (AR, IA, KY, MN, and VT).

Mr. Kranz moved to strike AM07034A01, AM07034, and RP07017. The motion passed on a voice vote.

Mr. Kranz moved to defer AM07001, AM07009, and RP07017A01 until June. The motion passed on a voice vote.

Ms. Magill asked that AM07017A01 be moved from SLAC to the Compliance Review and Interpretations Committee. Ms. Harrell suggested they strike the amendment and the corresponding rule.

Secretary Wagnon moved to strike AM07033 and AM07017A01 with the understanding they would be resubmitted. The motion passed on a voice vote.

Secretary Wagnon moved to strike AM07035A02, AM07035A01, and RP07010. The motion passed on a voice vote.

Secretary Wagnon moved to defer AM07035 and AM07032. The motion passed on a voice vote.

#### **CRIC INTERPRETATION:**

Mr. Dale Vettel explained that proposed interpretation IO08001 answered that it was the accepting florist, and not the receiving florist, that is the seller for sales tax purposes. Mr. Vettel moved to adopt the Compliance Review and Interpretations Committee's recommendation. The motion passed on a roll call vote with all members voting yes.

#### **TECHNOLOGY TASKFORCE REPORT:**

Commissioner Jerry Johnson explained the recommended registration system changes. Commissioner Jerry Johnson moved to authorize the expenditure of up to \$40,000 on the system changes. The motion was approved on a voice vote.

#### **RETURN AND REMITTANCES:**

Commissioner Jerry Johnson explained that AM07036A01 was the starting point for a discussion to make the SER available to all sellers and to get to one Streamline tax return. In response to a question from Secretary Wagnon, Ms. Harrell stated that the ground

work done by Certification Committee should be passed on to SLAC so policy people could evaluate the work proposed by the technical people. Mr. Joe VanDevender and Mr. Craig Rook both reported that their technical people expressed some concern. Mr. Larry Wilkie stated that a larger audience was a good idea as this may cost states more than people realize.

Commissioner Jerry Johnson moved to withdraw AM07036. The motion passed on a voice vote. Commissioner Jerry Johnson moved to refer AM07036A01 to SLAC and defer until June. The motion passed on a voice vote.

**SPECIFIED DIGITAL PRODUCTS:**

Commissioner Jerry Johnson explained that the phrase “or product transferred electronically” should have been included in Section 322 when the digital language was adopted. Mr. Nebergall stated that this was a technical correction which needed no research. Commissioner Jerry Johnson moved the adoption of AM08001A01. The motion passed unanimously on a roll call with Michigan, Nebraska, and Rhode Island absent and not voting.

Secretary Wagon moved to waive the requirement for a second vote. The motion passed on a voice vote.

Commissioner Jerry Johnson moved to withdraw AM08001. The motion passed on a voice vote.

**REPLACEMENT TAXES:**

Mr. Kranz explained that states and business had spent considerable time trying to draft an alternative to AM07005 but could not find better language. He moved the adoption of AM07005. The motion was approved unanimously on a roll call vote with Michigan, Nebraska, and Rhode Island absent and not voting.

Commissioner Jerry Johnson objected to the question of suspending the requirement for a second vote.

**STATE TAX RATE CHANGE:**

Ms. Harrell explained AM07030A02 by saying that its impact is limited. Mr. Kranz stated that it simply extended the hold harmless to purchasers. Secretary Wagon moved that the amendment be deferred to the June meeting. That motion was approved on a voice vote.

Ms. Harrell moved to withdraw AM07030A01. The motion passed on a voice vote.

**ADJOURN:**

Secretary Wagon adjourned the meeting at 3:00pm on Wednesday April 2, 2008.