

## **Governing Board Meeting Minutes**

*October 29-30, 2013*

- **Welcome and Roll Call of Member States**

President Wayne Harper called the meeting to order at 1:02 pm and welcomed the Governing Board delegates. Roll was called and all 24-member states were present either in person or by teleconference.

President Harper recognized the new legislators in attendance at the Governing Board meeting for the first time: Delegate Don Perdue (WV); Representative Patrick Hatlestad (ND); Representative Lance Clow (ID); Representative Charles Sargent (TN); Senator Ann Rest (MN), House Finance Ways & Means Committee Chair; and Senator Gaylen Hadley (NE).

Wisconsin Department of Revenue Secretary Richard Chandler welcomed the attendees to Wisconsin and provided a presentation on Wisconsin tourism and the history of the state.

- **Adoption of May, 2013 Governing Board Meeting Minutes**

Senator Luke Kenley motioned the adoption of the May 15-16, 2013 Governing Board Meeting minutes which passed unanimously on a voice vote.

- **Reports of Committees**

- **Executive Committee**

President Harper said this morning the Executive Committee had discussed the Registration System and personnel issues. CSP contract issues were briefly discussed and updated. He said that additional information would also be provided during other Committee reports.

- **Discussion of Federal Legislation on Remote Sells**

President Harper voiced his appreciation for the attendance of Mr. David Quam of the National Governor's Association (NGA), Mr. Max Behlke and Mr. Neil Osten of the National Conference of State Legislators (NCSL). He thanked the Senate for voting last spring for the Marketplace Fairness Act (MFA) as a standalone piece of legislation. He said we were told for many years that it would never pass as a standalone bill. The House Judiciary Committee is working on this based on Chairman Bob Goodlatte's Principles. He thanked everyone who has worked on that effort for a job well done.

Governing Board lobbyist, Charlie Sewell provided the Federal Legislative update and reported that he and Craig Johnson had met with the Bill sponsors last Friday. There are a number of possibilities that could come up over the next few months. They are shopping for ways to make that happen. They have met with Chairman Goodlatte as well as the Judiciary Committee staff to discuss the Principles. He said they have indicated that they think Streamlined does a good job addressing most of the Principles. Several issues have been brought up by members of Congress as the main concerns, including long arm audits, software integration costs and the small business exception. Regarding long arm audits, Chairman Goodlatte and the Judiciary Committee staff does not want a state to conduct an audit on a company unless that company

has a physical presence in that state. The next step is for a hearing but they are looking for other alternatives where they might be able to do something. He said everyone is encouraged to send emails and make calls to ask for support on the issues, and especially if state Legislators could weigh in on this with their members of Congress.

President Harper encouraged Governing Board members to contact members of Congress to ensure the momentum of the passage of the MFA in the Senate continues as it rolls into the House. He said they have very clear direction from members of the House and Senate that this bill needs to have a hearing in the House of Representatives, starting with the Judiciary Committee. The Governing Board has and continues to support the extraordinary efforts of the four sponsors to get this done. Senator William Dotzler (IA) said we have an advantage to get passage of the MFA because as Congress reduces the revenue of the states, it will be important for the states to be able to collect the revenue that is due to them.

- **Coordinating Efforts with Other Organizations**

Neal Osten of NCSL said Senator Dotzler had made a very good point. He reported that NGA and NCSL are continuing to lobby on Capitol Hill and work with the Governing Board. Last year NCSL took 200 Legislators to the Hill during the fall NCSL Forum as it was very important for the state Legislators to visit their U.S. Senators. They need to hear from people back home as to what they want. NCSL was successful in lobby day last year and have a series of lobby days planned for this year. It should be stressed that the MFA allows the states to use the revenue for whatever purposes they want, including Tax Reform. He said one thing that NCSL is here to talk about is that we really do need to work together as a group. They are fine with and will continue to push the MFA with the House of Representatives.

NGA Deputy Dave Quam stated we all have to be coordinated. There had never been a vote on this issue until this year and those votes were overwhelming. He said the MFA Legislation brought us to this point. As the House is taking a fresh look we should look at these Principles. If all the groups come together and state this is a solution on this effort, that will be hard to ignore. It is a coalition that is growing, tightening and all getting on the same page strategically. He said on December 13, 2013, the Budget Committee will report; the Government is funded until January 15, 2014 and will have to adopt a continuing resolution. The Government will take additional extraordinary measures to extend the debt limit. This is the time when states have to tell the story of what the MFA means to them. Getting a hearing is the next critical step, as well as actual mark-up of Legislation and moving ahead. Mr. Quam said the NGA looks forward to working with the Governing Board in these efforts. This has been a year of success and they look forward to continuing it with the Governing Board's help and expertise.

President Harper said it is absolutely critical for us to coordinate and work together. Senator Dwight Cook agreed that we need to be coordinating efforts. He said we have our CSP's out there, all looking for something to be passed. He said all of the states around this table have carved the path and from an NGA perspective we know we must bring both of those sides together so that any message coming from the states is the same and we must have one voice. We will continue to coordinate and will get even better at it. On the Hill 70-staff members filled

the room and at the end of the day we had more understanding. Now is the time for all of us to say we have a solution and need to get this done. Mr. Quam said they are coordinated with Craig Johnson and Senator Wayne Harper. On a regular basis they work with RILA, shopping centers and others, making sure that message is coordinated. He said they watch the numbers that come out of Cyber Monday and more revenue lost for the states.

Senator Luke Kenley said for those who have not attended these meetings in a long time, this is a top priority for the NGA. He said we do not know if the state Governors have been able to convince themselves to write a letter or make a call to each Senator and their delegation to say we in our states are four-square behind this. He asked Mr. Quam if the state's Legislators should go back and talk to their Governor's about that. He asked if the Delegates should be investigating that. Mr. Quam said there are never enough voices. This has been a longstanding priority that has moved up to our top priority legislatively. Some Governors are much louder on the issue than others. There's also a good chance that the Governors in every state Capitol right now were not the ones that signed their states Streamlined Bill. They learned about it from the NGA and the business community is behind this as well.

Craig Johnson asked Mr. Quam and Mr. Neil Osten if there are things we can do to help the NGA encourage more of the Governors to communicate that. David Quam said to make sure the Chiefs of Staff set their priorities. If it is to cut taxes, support transportation, to rebuild schools – no matter what there will be a budget for that. Congress needs to bless this - but they do not get to spend it. If the states would come out to say this is our priority and this is how we will spend it that would be helpful.

President Harper said the coordination efforts are to be commended. Those who work in tax commissions and departments of revenue should check with their officials and keep the momentum going. He reported that significant progress has been made this year and every day we are getting closer. If you have a member or have someone in your state getting pushback, let them know we are willing to support them. If the local Senator is being attacked by the opposition they need to know that their legislators and Governors are supporting them. It's another important part of this process.

Warren Townsend of Wal-Mart said in speaking for retailers, in general, RILA, NRF and shopping centers have been working hard. They have a list and are knocking on doors. They are working with the NGA and NCSL to make this happen and it will take a group effort to make it happen this year.

One of the most powerful tools on the Hill is when business and retailers from the member of Congress' district comes in and talks to them about what is going on and how it is negatively affecting their businesses. Seeing jobs leaving the communities is one thing that really gets their attention.

Senator Galen Hadley asked what the arguments are against the MFA. Neil Osten said one of the leading opponents of Legislation is eBay as they oppose the MFA. There are some groups who

had said they oppose this legislation because it's a new tax. Also there have been surveys taken by some groups asking if you want to pay taxes on your online purchases. They go to the Hill and say no one wants to pay taxes on the online purchases.

Richard Prem of Amazon said it's critical that we keep in mind that this is keeping healthcare from being repealed. He encouraged the funding effort of the registration system to do it right and to scale. He said let's not give opponents a sound bite. Teaming up with people in your local Legislatures and making a concerted push is something we can do better.

David Quam said they had taken the retail executives last year and would be happy to do that on December 4 and include the technology people. Commissioner Ken Roberts of Idaho said they have an annual conference on December 11 with keynote speaker Senator Wayne Harper of Streamlined Sales Tax. He said half of their state Legislators will be in the audience that day. He served 12-years in the Legislature on the Tax Committee. He said he is happy to hear that the Government associations and NCSL are coming together on this. He thanked President Harper on behalf of the state of Idaho.

Dan Noble said he has heard this "it's a new tax" argument for years in Wyoming. As the Director of Revenue, he collects this tax every day. People do not understand it. However, it is only being collected when we audit at this point in time. Everyone recognizes that the only efficient way to collect this tax is at the time the transaction occurs.

President Harper thanked the CSPs who are talking with Congress and demonstrating the software which is making a real difference as well. Craig Johnson said people just do not know that they owe the tax. If a group of states and the Governing Board came out with a uniform press release on the same day at the same time, that would definitely create awareness. He said we should come up with an article for the states to run. Richard Dobson said in Kentucky they encourage the self-reporting of Use Tax and realize that it is spotty at best. He said you may want to encourage press releases this year in regard to the MFA. It's a good idea for the states to put something in there individually and possibly collectively.

- **Discussion of Principles - MC130008**

President Harper read the Goodlatte Principles and reported that the Governing Board, RILA and other groups are preparing responses to those Principles. This is something that the House needs to walk through and remunerate going to a hearing and a mark-up Bill. He stated that the Governing Board has offered full participation in that.

In regard to the Tax Relief Principle, Senator Cook said if the Agreement that we have in place, in Chairman Goodlatte's mind does not meet this principle, he would argue that it does. President Harper said in Principles 1 through 7, the SSTGB Agreement squarely addresses and harmonizes with the goals of the Judiciary Committee Chairman. The MFA corresponds and addresses most of the Principles as well. Neal Osten said the Principles are generally where Goodlatte would like to go with the Bill.

Regarding Tech Neutrality Principle, Craig Johnson said we do not differentiate from an online or offline business. They are all treated the same by all 24-states. Warren Townsend said you have put minimum specifications in here and you have offered this for other states, even non-Streamlined states. The same tool is out there for brick and mortar stores to use.

Commissioner Bruce Johnson said you will hear from businesses on this point. He has one business located in Salt Lake City that has to keep track of 100-6000 rates. A brick and mortar store in Salt Lake City only has to keep track of one rate, one tax base. He said they have done what they can and have to do, but that is the context in which this argument will be made.

Joan Wagnon said in Washington, language is often viewed by someone else as the opposite. The Principles are subject to lots of different interpretations. She said we need to be careful as tax administrators and Streamlined folks will have different understandings. Some may say that Tech Neutrality means that we do not need a small seller exception.

Senator Cook said the most important guy is the guy who wrote it. He argued that it's a different burden. Those who have a brick and mortar store need staff and floor space. Online need only a warehouse and computer. They are entirely different burdens but similar. Commissioner Bruce Johnson said he recognized that business models have to be dealt with differently but can be dealt with fairly. The ramifications are a business choice that the Governor should not get in the middle of. One business Model should not have an inherent tax advantage over the other. He said we need to talk more about equivalency and fairness rather than quality.

Senator Hadley said you can pay taxes in a state that you are doing work in and not have a right to vote. For instance, he is a registered voter in Nebraska and goes to Arizona in the winter with no right to vote there. He asked if taxes can be collected from him. He said that would be the first thing that he would take to court.

Neal Osten said that causes the most concern. Every single one of the Principles means something to everybody. One question they have at NCSL is how to respond to the Principles. Commissioner Bruce Johnson said, for instance if there is no smaller seller exception and he is complying under the MFA and gets an audit notice from 40-different states, he would have to prepare a response to 40-different states and said he felt that is an issue. He encouraged the states to do single audits. It's a red flag and another thing to have to respond to an assessment. That is a greater burden than just filing a return. He said we should come up with concrete proposals.

President Harper said we have worked on simplicity for years with the business community. The last statement there is to make it so simple that the small business exemption is unnecessary. Dan Noble said that Craig Johnson had emailed an article previously regarding cost and compliance. It was a large number. It's damaging when you hear something like that. He asked if there has been a response to that at all. Mr. Johnson said it is the Trust Report, there is working being done and groups are trying to identify what the real costs are. He reported that President Harper and he had met in DC last Friday. One question that was asked by one of the legislative

aides was how they were supposed to know whether this type of information is or is not true. The challenge that he provided the aide was to find a retailer of his choice who would like to sign up and have them use our CSPs services and let them report back whether or not the “Trust” report was accurate.

Craig indicated he has made a number of other visits to Capitol Hill with Joan Wagnon and Charlie Sewell where they demonstrated the software. The Trust report took them weeks or months to put that out. He said we need to respond with good hard facts.

Richard Dobson (KY) said regarding simplicity, the MFA is a two path process for gaining remote collection authority. One of those paths is being a member of SSUTA. The collection and remittance process has been simplified. Commissioner Keith Getchel said there is simplicity with Streamlined already.

Dan Noble said Montana has never had a sales tax and as a kid they would drive 200 miles to Billings to just have a sales tax holiday. He said the folks in Sheradin are very concerned about it as they are only 60-miles away. You will always have cross border issues, especially if you have no tax at all in one of the states.

President Harper said this is a state issue and not a federal issue. States should be sovereign within their physical boundaries.

On the Privacy Rights Principle, Commissioner Bruce Johnson said one of the criticisms is that the states are not auditing these individuals and that’s what they should do. When you consider how intrusive an income tax is for an individual that is a serious privacy issue. We have confidentiality rules to protect that information from an audit. Your deductions are those things that you choose to report. He said if he were to do a sales tax audit on Senator Harper he would want to see his visa card, bank accounts, and etc. to see where he made his purchases, what he bought and if he paid sales tax in Utah. That would be much more intrusive. In the transaction where I go into a Wal-Mart retailer and they collect the sales tax, that’s the most private type of transaction that he has.

Neil Osten and David Quam thanked the Governing Board for including them and said they appreciated the comments and thoughtfulness of this group.

- **Ohio Petition for Full Membership – OH2013 – Myles Vosberg**

- **Certificate of Compliance, OH2013A01CC and Taxability Matrix – OH2013A01TM**

CRIC Chair Vosberg reported that the state of Ohio has officially applied for full membership on the Governing Board. The Governing Board along with the business community has reviewed the Certificate of Compliance and Taxability Matrix to ensure the state is in compliance with the Agreement. Ohio has been an associate member state for years.

They had an issue a couple of years ago regarding hospital beds and the Governing Board found that Ohio was not out-of-compliance on that particular issue. There is language in the Agreement that allows for an entity exemption for a defined product.

The other topic discussed during their review was sourcing of direct mail for which a notice has been prepared and is in compliance with the Streamlined Agreement. There were no other issues raised by the BAC or the general public.

He reported that the Compliance Review and Interpretations Committee had made a recommendation that Ohio is in substantial compliance with the Governing Board. Chair Vosberg made a motion that Ohio become a full member of the SSTGB. Fred Nicely said on behalf of the BAC and COST, he had asked both memberships if they had any issues with full membership of the state of Ohio and they had none. He expressed his appreciation of the work of Ohio and Phyllis Shambaugh. The roll of the full member states was called and the motion was adopted unanimously. President Harper stated that Ohio is approved to become a full member state. Phyllis Shambaugh (OH) said they look forward to working with everyone.

- **Proposed Amendments for Discussion and Possible Action**

Jerry Johnson said at the last Governing Board meeting a long discussion was held in regards to best practices and two amendments that were before the Board. There was significant discussion on the issue of vouchers which was up for vote at the last Governing Board meeting. When Streamlined first started, they had struggled with the level of simplicity that they were trying to achieve. The workgroup want to do as much as they could on uniformity and try to address the burdens on retailers. They spent a lot of time working on uniform definitions, the taxability matrix and how those things would work. One lesson learned over the years is when you are dealing with that many states, the different cultures in state legislatures, and the history in the ways our sales taxes are structured, that it's very difficult often to reach the level of uniformity that we all want. The first voucher vote taken was a strict way of addressing vouchers. He said with lots of discussion and debate, when they had voted the first time there were still concerns that there would be states among us that had participated and been with us the whole time that would drop out of this effort because of the strict language. He said the workgroup realized that it's not in their interest to continue to do things that cause other states to not join Streamlined. The workgroup took a new approach on how to look at some of the common definitions. In addition, a lot of the discussions are on things that are not even included or being considered in the MFA. He said they had also recognized that what this project has been about all these years was to provide certainty and relief to the business community and make things uniform and simple. He said they have developed a new Best Practices approach to address issues as they come up in a uniform and simple way. However, when it's counter-productive to the organization to force uniformity, then there will be an opportunity under Best Practices to say this is what we can provide to the business community from a certainty standpoint.

- **Final Action on Amendments from Previous Meeting**

- **Section 335 – Best Practices (Oklahoma) – AM13001A05**

Jerry Johnson reported that Section 335 is a new section that adopts a best practices approach that goes along with an amendment to Section 328 that amends the current section of the Agreement dealing with the taxability matrix. At the May meeting the Governing Board voted to adopt those two items. There was a lot of discussion regarding the best practices amendment and language in both of them to develop common practices. The Governing Board eventually voted on the term “best practices” and the final vote was 19 yes and 3 abstained. Some states may have to change their law to conform to the liability relief provided in the amendments. Today is the second vote on those two sections. He felt it was very important to move forward on this in the strongest way possible on trying to preserve what they have intended all along in providing the most uniformity and simplicity possible – along with certainty for the business community.

Mr. Johnson said the Voucher Rule adopted at the September 2012 meeting, has been withdrawn and this is a new one with the best practice language that is being considered.

Gina Dougherty said that Arkansas had motioned to amend the name from “best practices” to just “disclosure of practices.” That would meet the goals of uniformity, simplicity and provides certainty to the business community.

- **Proposed Amendment to Section 328 – Taxability Matrix and Relief of Liability (Arkansas) - AM13009**

Jerry referenced AM13009, the substitute amendment by Arkansas. He expressed his appreciation of the work by Arkansas. He said the concern that he had with this amendment is that it appears to be more than what the Governing Board is trying to come up with. The Governing Board is looking to identify what they think is the best way to address an issue in the most uniform way. Instead of a best practice, this requires a disclosure of practices. He said as he reads it, if a topic is picked then each state is responsible for coming up with how they handle that topic. In other words, each state just reports how they do it.

Christie Comanita said SLAC discussed this issue yesterday during the meeting. It pointed to the fact that while folks are prepared to take the second vote on the Oklahoma proposal, the states felt there was still room for continued discussion regarding what Arkansas has put forward. She said they took a consensus vote regarding the Oklahoma amendment and the vote was 29-yes and 2-no. When they discussed the Arkansas proposed amendment, the vote was 22-no, 7-yes and 2- abstained. She said they had taken a third vote on whether or not to continue discussion on the realm of best practices or some type of matrix notification of different tax in different areas. The vote was 25-yes and 5-no to continue the discussion. She indicated that she felt SLAC was prepared to take the final action, but states feel this may not be the end all.

The basis of the vouchers is more clear-cut in the best practices format. In more complicated issues, (i.e. the issues facing credits), it is not as clear-cut and well defined as it is with vouchers. She reported that in moving forward, the state members of the SLAC would prefer to not close the door if in fact it cannot be easily defined with best practices, and this would be an alternative approach.

Richard Prem announced that he is the new Business Advisory Council (BAC) President. He said the BAC community supports Oklahoma, the time is now and issues need to be discussed. When you are trying to move federal legislation, you have to take this vote. He said he did not feel that there was a need to delay the vote on this issue. Jerry pointed out that in the amendment Best Practices 1, we are amending the Agreement. He said at a future time if we find that this doesn't work, we can amend the Agreement to make changes. He said the amendment is written in a fairly broad manner and all they are putting in the Agreement is a requirement to disclose how you deal with best practices.

The details of the voucher best practice itself are in a separate amendment and no state is required to follow that practice. Instead the amendment just requires them to indicate if they follow that practice and if they don't follow it, they would just indicate how their state handles that situation. Because of this and since it is not something a state must follow to be in compliance with the Agreement, he said he thought the Governing Board felt more comfortable just requiring a majority vote rather than requiring  $\frac{3}{4}$  majority as is required for amendments to the Agreement that impose a requirement on states.

Mike Eschelbach (MI) said they supported the original motion of common practices which provided information to the business community as to what the state practices are. When the program changed to Best Practice, Michigan objected to that because they felt it was not appropriate for this body to say what was or was not a "best" practice. There is concern that if a state does not follow a "best" practice, that may be used as a lever to get them to change what they are doing. He said Michigan did not feel that was appropriate.

Arkansas pointed out that the adoption of a Best Practice requirement only requires a simple majority. He said he does not see that it's the role of the SSTGB to provide that direction to the states. He said a best practice can be approached from various perspectives. Michigan does not support the concept of a best practice but they would support the Arkansas disclosure of practices because they feel the business community deserves that.

Richard Dobson said the supplementary matrix concept allows us to observe the work production that has come through the Governing Board. The discussion of the term best practice is important. It sends a signal as to the methodology to be used going forward. The voucher amendment has three best practices or approaches as far as how the particular states do vouchers.

With the adoption of that then when the credits best practices are brought forward, that document will have multiple sections to it and be much more exhaustive in scope than the vouchers best practices.

Jerry Johnson said as the amendments worked their way through the SLAC, Michigan and others raised concerns about the term best practices. He stated that those concerns were addressed at

the last meeting and there was a motion by Senator Cook. There was a vote and it was determined that “best practices” would be used.

Bruce Johnson said on the Oklahoma proposal, people may be putting too much emphasis on the term best practices. He said the terminology is not critical, maybe it should be “predominant”, maybe it should be “common” but he had no problem with the fact that someone sees something as a best practice and uses that as a lever in trying to get other states to change. He indicated that he would not have a problem going to Utah, Michigan or Minnesota and ask why don’t you do this the same way that other states are doing it. He added that some states will say they are not going to follow that particular best practice. He said Legislators do that all the time and it doesn’t mean they are bad people or a bad state. He said our default should be to move toward uniformity when we can. When it’s an adopted practice it should be moved in that direction when you can.

Russ Brubaker said he applauded Jerry Johnson and Tony Mastin for their incredible work on this. He read the amendment and in trying to be as transparent as possible and moving toward uniformity he indicated he thinks you do that through the Oklahoma model. You can put the best practice in front of them and they can decide if they follow it. If they don’t, then they indicate how they treat the transaction. He said the Arkansas amendment is a punt and we really need to reach a field goal and touchdown. He said you need to really do the hard work that it takes to simplify tax administration.

In response to Bruce’s comment about what is “predominant”, Gina Dougherty said part of the problem with best practice as it stands now is Arkansas is not using what is predominant. She said if you have twelve states that do it one way and eleven that do it the other way, then twelve would be predominant in a simple material word. The other issue of being predominant is that it is not clear that they are actually going to use the predominant approach but instead are going to try to determine what is the best practice. She said that is not the same as what is predominant and that needs to be addressed. She said the Arkansas proposal just puts the information out there so businesses know what to do.

President Harper said during the process in working with Jerry Johnson on the best practices or whatever you call the term, if you go with the best practices model there can still be fifteen reasons as to why you have opted out. He said that is the essence of this organization today as we have toggles. There’s going to be disclosure either way. He said are we are trying to make sure the states disclose what they are doing and provide that guidance.

Pat Calore said in the SLAC Committee meetings they talked about these practices. She said we are talking about actions that the department takes because in the statutory language we cannot comply and check the box on best practices language. As we make changes here to the best practices and address the credit issues, there is real money tied to those changes. She said we have to be mindful of the consequences that they are not things that we can just change. We have to go out to our Legislature. Each state has their own sovereignty as to tax or not tax items. The business community can come to their state and discuss that with their Legislators. She said

we haven't even discussed the credit amendment and that is a very important discussion because it shows you the application of the best practices in another example. When you look at the credit amendment and matrix, you will see a nuance as to how this plays out. She said in the SLAC meeting yesterday there were several instances where the states were split on how to handle an issue. She said who is going to make a value judgment if we go with best practice? Will it be a workgroup? There would be 23-member states that would provide input on that. She said unless all of the Governing Board members go to every SLAC meeting, they will not understand and follow all of the details. She said we are rushing to decide something in a case and then we have the credits coming up right behind us. That will show us some of the difficulties that we're going to face if we really want to do this best practice as proposed. She noted that the MFA does not require this. This is a requirement that we are putting on ourselves. To the extent that the Best Practices Matrix is difficult and she said she was not sure of the message that this sends to non-member states.

Senator Cook said this is the only public policy you will find in the country where you will see the business community and states working side by side to make these decisions and then states can decide if they do or do not want to follow it. He said that he supported the Oklahoma motion.

Senator Kenley moved to adopt the Oklahoma amendment, AM13001A05 and AM13004A03.

Jerry Johnson said in closing, he appreciated the discussion and comments today and thinks this allows an opportunity as a Governing Board entity to continue to address the problems brought to us by the business community and address them the best they can. Any implication that this was done behind closed doors is ridiculous as this has been discussed thoroughly. He said as a group, we couldn't come to a consensus as to how to do this uniformly, but this method provides the needed guidance for the business community and it's important for us to move forward on it today. He said this allows the opportunity to address the issues of sales tax administration and continue in the discussions as to how states can address issues from the business community as they arise.

Richard Dobson said he thought the best practice regarding vouchers is a good work product and a good way for us to continue to provide information to the business community. He said it is more of a prevailing practice rather than a best practice.

President Harper said we have a motion on the original Oklahoma amendment. Kelley Linck said they would like to offer a substitute to the motion of the Arkansas amendment, AM130007 and AM130009. There was no further discussion. Craig Johnson said on the motion to amend Oklahoma's motion, associate member states may vote, but on the final amendment only full member states may vote. On the motion by Arkansas to amend the AM13007 and AM13009, the roll of the states was called with 7-yes, 16 no, and the motion failed.

President Harper said with that motion failing we will go back to the original motion. Roll of the full member states was called for vote on the amendment motion, AM13001A05 and

AM13004A03. There were 18-yes, 2-no, 1 abstention, one absent and the motion carried. President Harper said the motion passed by the three-fourth vote requirement.

○ **Best Practice on Voucher – AM13011, AM13012**

Jerry Johnson said the best practice under Section 335 related to vouchers is AM13011. He said when we looked at the best practices approach, this was done to conform to that approach. He thanked Tony Mastin for the work that he had done. He said the workgroup had made a few changes and he urged adoption of that. For specific questions, he would yield to Tony Mastin. This is what was determined by the Workgroup to be an appropriate best practice related to vouchers.

Gina Dougherty said that Arkansas would withdraw their amendment to the Oklahoma amendment, AM 13008 and AM13010.

Tony Mastin said the best practice for vouchers had not changed much in the overall meaning but was streamlined significantly. The basic format is that it defines an instrument to be a voucher to be used throughout these best practices and sets up three best practices:

1. Member state administers the difference between the value of the voucher allowed by the seller and the amount the purchaser paid as a discount that is not included in the sales prices as long as the discount is not reimbursed by a third party.
2. When the discount on the voucher is fully reimbursed by a third party, the seller will use the face value of the voucher as the price subject to tax.
3. The costs and expenses of the seller are not deductible from the sales price.

The matrix would be set out as a subsection to the taxability matrix and sets out those best practices for the states to complete with a yes or no answer. It also allows the state to provide additional comments. He said the workgroup sent that out to some states and asked them to complete the matrix to see if there were any problems with it. They have received 11 responses and 9 of those answered yes on all 3 of the best practices noted.

Jerry Johnson moved to adopt the best practices rule and associated matrix. There was no further discussion. Roll of the member states was called to vote on AM13011 and AM13012. Twenty member states voted yes, 1 abstained, 1-absent and the motion carried.

President Harper then indicated the meeting would reconvene on Wednesday, October 30 at 8:30 am central.

**October 30, 2013**

President Harper called the meeting to order at 8:34 am central to continue from the October 29 Governing Board meeting. The roll of the states was called and all member states were present in person or via teleconference.

- **Use of Registration System by Non-Member States/Request for Proposal**

Craig Johnson reported that he and David Thompson are working on the request for proposal (RFP). He said the Executive Committee and some of the non-member states will review the RFP. Reliability and security are of the utmost importance with this system. He said they want to make certain that when this system is ready and all states and sellers want to use it, that it works exactly as it is supposed to. He said they had identified over 35 different use case scenarios that the system needs to be capable of and the flexibility of the scenarios that are built into it.

The CSPs have made visits to some of the non-SST states to discuss the central registration system as it exists today and there has been interest. Joan Wagnon, Charles Collins, Russ Brubaker and Scott Peterson shared information regarding their visits with the non-Streamlined states. Ms. Wagnon said they had wanted to get something into the MFA about the requirement of the Central Registration System as the Senate sponsors were not planning to do that. She said they put together information and one critical item is that people are able to register conveniently. Ideally, non-SSUTA states will participate and accept registrations from the Registration System. She said almost all states that they had talked to seemed to have some belief that if this is not terribly expensive they would be willing to do that as they see it as a release of the burden for the retailer. The CSPs believe that making the Streamlined Registration System available to all retailers would make things simpler. She said the costs for consideration would be ongoing maintenance of the system.

Another thing they discussed with the non-SST states had to do with certification as there is a requirement that the software be certified in all states. The CSPs wrote a paper and included it in a booklet which they distributed to the non-SSUTA states. It shows them where Streamlined has already invented this wheel. Several have asked if they could just partner with Streamlined and come under the Streamlined contract. Sharing this system will be a good tool to help with the implementation. They have told the non-member states that they are not trying to sell them anything. She said if anyone would like to have a copy of the booklet, to email her at [joanwagnon@fedtax.net](mailto:joanwagnon@fedtax.net).

Craig Johnson asked if there were any states they had visited that were not interested and Ms. Wagnon said they were interested, but wanted to know the cost. They also have explained the certification procedures and provided Appendix E from the SSTGB Rules. The CSPs have undertaken this effort to help ensure that this process works when MFA is passed.

Dan Noble asked if the changes to the Registration System will affect the member states requiring changes for them as well. Craig Johnson said it most likely will not be exactly as it is now and there probably will be changes for the Streamlined states. President Harper said he had asked David Thompson and Craig Johnson to draft an initial RFP to send out. He asked the attendees if they have initial recommendations to send them to those two. The RFP will be completed within the next 3-weeks and then be provided to the Executive Committee for review. Once everyone agrees to it, it will be initiated and there will be time for responses. The Executive Committee will then review it and will award a contract. He said a draft must be completed fairly soon for review and then it will be sent out.

Senator Kenley asked the CSPs if they have plans to respond to the RFP and make proposals about developing the Central Registration System in conjunction with Streamlined. Ms. Wagon said that is not what they do and that is a different set of technical systems. FedEx, Avalara and Taxware have technical folks in their organizations who may assist. Senator Kenley asked if their staff could put information together for review. President Harper asked everyone to email Craig Johnson with recommendations or concepts of things that should be included in the RFP for the Registration System.

Phyllis Shambaugh asked when the changes will be made and how much time the states will have to make the required changes. Craig Johnson said that is to be determined but the system needs to be up and running before the enactment of the MFA. If there are any glitches that would give us a chance to work them out before the MFA is effective. He said they are not looking to change things in the system. Ms. Shambaugh said they have a new system scheduled to come up in July 2014 for sales tax and their IT department will be asking all of those questions. President Harper said the intent is to build on what we have and augment it so it will handle more states and will be a much more robust system than what we have now. Richard Dobson said that hopefully getting uploads for member states will not be a major change. He asked for a few examples as to what they may anticipate and the states will talk to their IT departments. David Thompson said there will be additional information for non-Streamlined states that the member states will not have to use.

- **Continuation of Federal Affairs Contracts through June 30, 2014**

Craig Johnson said the federal affairs contracts are continuing, but if the federal bill passes, the Federal Affairs contracts may be terminated.

- **Reports of Committees**

- **Finance Committee Report**

- **FY2013 Annual Financial Report – FR13004A01**

Victoria Daniels, Chair said the Governing Board ended FY2013 with a higher ending balance and less of an operating deficit than was projected. Receipts came primarily from the dues paid by member states and meeting revenues which were lower than expected. The expenses were lower as well. Major budgetary developments included two Federal lobbyist contracts and upgrades to the Central Registration System for bulk registrations. The cash and cash equivalents were somewhat less than at the end of FY2012. The banks provide the ability to obtain interest of \$918.00. She reported that the Governing Board has a stable condition after seven and a half years of operation. Craig Johnson said the audit was performed by Watkins Megan for FY2013 but has not yet been finalized. He added that the auditors have expressed no concerns.

- **FY2014 Revised Budget – FR13005**

Chair Daniels reported the beginning balance of the budget proposed for FY2014 and which was approved last September can now be changed to update that to the actual beginning balance now that we know that the ending balance from FY 2013 is. In addition, specific line items that are being recommended for revision include: (1) Postage and delivery increase by \$1,000 and (2) Rent and Office Space reduced by \$1,000.

Craig Johnson said the Central Registration System line item is the main change from the FY 2014 budget that was approved previously. The Governing Board pays about \$3,000 per month for storage space and upkeep on the existing Registration System. The additional money being proposed is for the changes to update the Central Registration System and results in an increase of \$65,000 to that line item for the FY.

For Meeting Expenses, an increase of \$5,000 is being proposed to help cover the costs for the State and Local Advisory Council and Audit and Certification Committee meetings. There are no registration fees charged for these meetings, however there are audio visual needs and room rental costs which are incurred.

Finally, the ending balance when the budget was approved last year was projected to be approximately \$305,000. The changes above that are being recommended and have been approved by the Finance Committee will, because of the lower than expected expenses from the previous year, still leave an ending balance of \$307,135. President Harper asked if there were any concerns regarding the changes. No comments or concerns were raised. Diane Hardt made a motion to approve the FY2014 revised budget and it was adopted unanimously on a voice vote.

○ **Proposed FY2015 budget – FR13006**

Craig Johnson said this is the time of year the states start putting in budget requests for the following fiscal year so we need to give them some idea of what the Governing Board budget will look like for that year. Although it's a long time out, the states need to know the potential dues now. The proposed budget for FY 2015 (FR13006) reflects virtually the same expenses as the FY 2014 budget with the following changes:

- The salaries and benefits and office expense show an overall net increase of \$1,000.
- The travel expenses should be about \$10,000 less than FY2014 because in 2014 the audit core team will be going out to perform the compliance audits of the CSPs and that will not happen in FY2015.
- On the Central Registration System line item, \$150,000 is being proposed. With the current system we are already spending about \$3,000 per month for ongoing maintenance, storage and operation. We do not know what the final cost of the new/upgraded system will be, but need to recognize this will be a substantial cost. This proposal puts \$100,000+ in to help pay for the central registration system.
- We will keep the Meeting Expenses at \$65,000 which was just approved for FY2014.

One other thing to note is that if the MFA passes in 2014 the Federal Affairs line item in the budget at \$180,000 would be reduced because that would no longer be a necessary expenditure and those contracts could end.

○ **FY2015 Budget Proposal/Dues Options – FR13006, FR13007**

Craig Johnson said the dues in FY2013-2014 were \$775,000. Proposed for FY2015 is a dues increase so the total member payments would be \$955,000. FR13007 is the breakdown of the dues with and without the increase. The increase is \$180,000 which would allow us to update

the Central Registration System and maintain the Federal affairs contracts. If we do not do this increase it will put the ending balance down to only \$130,000, which is too low from a cash flow standpoint and to make sure the organization can continue financially. Dues payments are due in August of each year and we have expenses of about \$65,000 per month. If those dues come in slowly we will have a cash flow problem.

President Harper asked for a motion for the proposal of the FY2015 budget. Senator Kenley said in reviewing the whole situation they are going through some significant changes in the organization. There are a lot of unknowns such as new memberships. He added that in looking at the expenditures performance it is obvious that Craig has been frugal with spending. It only seems fair that the finances be made available as we do not know when the Bill will be enacted. The Board should be in a reasonable situation and he felt a 3% increase every year for 2-years made sense. He said there are no salary increase expenses and the Governing Board needs to be prepared for continued liabilities. He endorsed the Finance Committee's work.

Ms. Daniels said the project the Governing Board has been working on for years is surrounded by unknowns. She said we should plan for this now and if in the future we find the increases are not needed, we can take a subsequent vote at that time to remove the increases. She said the changes to the Registration System are needed and it's appropriate to have the changes anticipated for the following years.

Tim Jennrich said a structural deficit needed to be addressed. Washington is concerned with the 3% increase on the annual basis. It acts as an internal control on spending and perhaps makes them more responsible if this is not automatically built in. He said at this point we don't know what kind of expenses there will be and perhaps it's more appropriate to discuss this on an annual basis.

Delegate Don Perdue said the discussion is appropriate. He recognized the fact that in order to score liberally you have to shoot conservatively. He said the states have concerns about their state budgets. He has been informed that this is within West Virginia's budgetary limits.

President Harper asked for the adoption of the proposed budget. Senator Luke Kenley made the motion with the increase of 3% for the next 2-years. He said that can be adjusted as necessary. Tim Jennrich asked if the motion could be divided, first to adopt the proposed FY2015 budget and a second vote to increase the dues by 3% for 2-years. Craig Johnson reiterated the motion to adopt the FY2015 budget and the state roll was called. There were 21-yes votes, 1 no and 2 absent. The state roll was called to vote on the motion to increase the dues by 3% for 2-years. The states voted 12 yes, 10 no and 2 absent. President Harper asked if that required a simple majority vote of two-thirds and Craig said simple majority and the motion passed.

- **Interpretations Committee - Myles Vosberg, Chair**
  - **Naturally Flavored Water - IO13001A01**

Chair Vosberg said under rule 902 any member state or person may request an interpretation by the Committee which goes to the Executive Director. The Compliance Review and Interpretations

Committee makes an initial evaluation. The Executive Director solicits comments from the general public with notification. The comment period is limited to 10-days if expedited and otherwise a 60-day notice. A hearing is held and recommendations are made to the Governing Board for vote. A question of interpretation was submitted regarding whether certain beverages fit the definition of soft drinks. In this case there are certain products that have natural flavor, essence or spice, but do not specifically have sweeteners identified in the ingredients for those products. It was a unanimous decision of the Committee members present that since the products only contained natural flavor, essence or spice but no sweetener, they are not considered soft drinks. He made a motion that the Governing Board approve IPIO13001A01 and there were no comments. Craig Johnson repeated the motion to approve IO13001A01 and called the full member state roll. There were 19 yes votes, 3-absent and the motion passed.

- **Chocolate Fondue - IO13002A01**

Chair Vosberg discussed whether fondue chocolate pouch meets the definition of candy. This is a product made from chocolate in a wafer form. The requestor's opinion is that this is not candy because it is heated in a microwave and softened before consumed. After the CRIC reviewed the request, they felt the chocolate fondue does meet the definition of candy because it contains a sweetener, is sold in the form of a piece as the wafer appears to be a piece. Based on the specifics of the products it is the opinion of the CRIC that this product does fit the definition of candy. He moved that the Governing Board accept the interpretation of IP2013-2. There was no discussion. The roll of the full member states was called, with 19-yes and 3 absent, the motion passed.

- **CRIC Annual State Recertification Review – Myles Vosberg, Chair**

Chair Vosberg reported that the Compliance Review and Interpretations Committee is in the middle of reviewing the 2013 member state re-certifications. They are reviewed in 2-groups and 12-states have already been reviewed. The remaining states will be reviewed in the next 2-weeks. They will be finished with the process by the end of November.

- **Election of 2014 Officers and Nominating Committee - MC13006, MC13007**

President Harper reported that the 2013 Nominating Committee had met and recommended the following 2014 Officers and Directors:

Officers

Diane Hardt, President (WI)

Senator Deb Peters, 1st Vice President (SD)

Richard Dobson, 2nd Vice President (KY)

Victoria Daniels continuing as Secretary-Treasurer (IA), 2<sup>nd</sup> year

Directors

Jerry Johnson (OK) – 2-year term ending December 31, 2015

Michael Eschelbach (MI) - 2-year term ending December 31, 2015

Representative David Drovdal (ND) - 2-year term ending December 31, 2015

President Harper moved that the Governing Board adopt the 2014 slate of candidates for Officers and Directors. The roll of the states was called with 20 voting yes, 4 not voting and the motion carried. President Harper welcomed the incoming 2014 Officers and Diane Hardt as the 2014 President. He reported that Senators Luke Kenley (IN) and Don Balfour (GA) and also himself as the past President will round out the Executive Committee for the next year.

- **Slate of 2014 Nominating Committee Candidates**

President Harper moved the approval of the 2014 slate of Nominating Committee candidates: Representative Reuven Carlyle (WA), Representative Brian Kennedy (RI), Victoria Daniels (IA), Harry Fox (NJ), Phyllis Shambaugh (OH) and Eric Wayne (NC), Ellen Auger (MN) and Dan Noble (WY). The roll of the states was called and the motion passed with 20 voting yes and 4-absent.

- **State and Local Advisory Council (SLAC) – Christie Comanita, Chair**

Christie Comanita thanked President Wayne Harper and the Executive Committee of the Governing Board for their support as she had completed the second year as Chair of the State and Local Advisory Council. She thanked Tony Mastin as the Vice Chair, the Workgroup chairs and all government and business representatives who have committed time and effort in working on difficult issues this year. She said in-person meetings were held in Dallas and Des Moines. The state and business community attendees find these meetings to be very good and time well spent. It takes organization, attention to detail and all involved to find solutions that will work for everyone.

In Monday's SLAC meeting they had 3-subject matter discussions: the vouchers best practices proposal, the credits best practices proposal and the sourcing of digital products which there will be continued efforts on. They are headed in the direction of a rule.

In May 2014 there should be a rule of best practices for credits on the Governing Board agenda for a vote. Credits for taxes paid is very complicated and has been a difficult issue for the state and business side. SLAC is moving in a positive direction and it will be a best practice at this time, giving credit to Ellen Thompson, Chair and Jody Bartels. After 3-years SLAC hopes to have something for the Governing Board to vote on at the May 2014 meeting.

She said whoever picks up the reins as the SLAC Chair will hopefully make the in-person meetings happen.

In the Monday, October 28 SLAC meeting, SLAC discussed federal implementation and went through the Q&As. Some of the non-SST states participated by teleconference from Texas and California. The local governments recommended adding a section to the Q&As for them and that was a good discussion as well.

- **Federal Implementation Workgroup – Richard Dobson, Chair**

Chair Richard Dobson said we will go through the FAQ Subgroup product. In summary, this is still a living draft document. It talks about the issues based on Senate Bill 743. This is a beneficial process and has helped work through several issues which are noted in the document depending

on what the Federal Bill ultimately contains for language. This type of document will be extremely helpful with the implementation of the Bill. As the process goes forward we can continue to work from this document to edit, refine and enhance it. There has been a lot of input from the member and non-member states, including Texas, California, Illinois, and Virginia. The document is divided into several sections. You will see some intentional levels of repetition because this is geared to address multiple audiences. There are separate sections for both member and non-member states, a business section and consumer section. A section will be added regarding local governments. We may also create a section for non-sales tax states with questions sellers and vendors in those states may have.

- **FAQ Subgroup Update – Craig Johnson, Chair - MC13010**

Craig Johnson said this was a very good group, an immense cooperative effort and appreciated all of the input from Streamlined and non-Streamlined states who were engaged and shared their thoughts on this, as well as the business community representatives. It is extremely important that we have this document ready to go either the day or day after the Marketplace Fairness Act is enacted. The language or changes in the bill will continue to be worked through as they happen. Once the MFA passes we will see some potential revisions. He thanked the CSPs, Fred Nicely, Diane Yetter, Deb Bierbaum and all of the participants who took a lot of their time in getting ready for the MFA.

The local governments need direction in coordinating with the states as well. Mike Bailey and Susan Gaffney have sent proposed Q&As relating to local governments for consideration and discussion.

It is anticipated that when the MFA first passes the states will be inundated with calls and we want to ensure their staffs are ready to provide answers for the businesses and consumers. He asked the states to review the Q&A document and to notify himself and Richard of any changes or additions states may think are necessary. Victoria said she is already receiving questions and asked if it would be appropriate to share the Q&A draft internally within their Department of Revenue or talk through it with anyone on the phone so they can get a better understanding and use the document as a guide. She asked if there is a sub-set of the FAQs that could be shared externally. She said the questions are coming from their Iowa legislators - not Senator Dotzler but his peers. She would like to have something to provide them and not reinvent the wheel.

Richard Dobson said this is a public document. Craig Johnson has shared it in certain venues and it is posted on the SSTGB website. He made it clear that the document is a draft and as long as a qualifier is put on there and people understand that as this process continues at the Federal level, this document will be out of date. Craig Johnson said he would stress the general disclaimer stating consult your tax advisor and attorney. He said as long as it is distributed as a draft, if questions come up that should be clarified that is a great way to do it on an internal basis. For any of the states or business community members that want to share it, it is a public document and is published in the meeting book. We want to ensure that everyone knows it is a draft and has not been approved by the Executive Committee or Governing Board. He said he would hope the Business Advisory Council and business members are sharing this among themselves. We

need to ensure that we are all on the same page and that everyone receives the same answers. He said it is not any type of legal advice.

Bruce Johnson said if the document is available electronically, it would be easy to cut and paste to the extent that you agree with it and if you wanted to incorporate it into your own document.

Chair Dobson said there are an extremely broad category of issues that need to be determined. Other items within the Federal Implementation Workgroup are the sample MFA notice language. Under the current Senate Version of the MFA Bill there are two paths that are specified for states to gain remote collection authority. Under the Streamlined path one requirement is that states give notice of their intent to exercise the authority. This is a draft suggested template that was put together by Patricia Calore, Tim Jennrich, Craig Johnson and himself and is just some general language to consider. He said this is not language that Streamlined states are mandated to follow. The Federal Bill as it is currently written does have this mandate but does not give the direction as to exactly how a member state would provide notice. He said the subgroup offers this as a sample and is subject to change depending on what does get enacted. Each state will have to answer the question as to how this will go forward. Three bullet points below the notice language are other topics of conversation that states need to be looking at. He said that information is offered up as food for thought (i.e., notice requirement, collection under MFA and the Federal due process clause). It will be the individual states responsibility to look within their own laws.

On the issue of nexus in the Federal Bill, currently there are several disclaimers and a clear statement that there's no intent to change or circumvent existing state laws regarding nexus. Once we have remote seller collection authority with MFA, the question will be what the hierarchy in each state is. There is overlapping language and states need to be looking at the provisions within their individual statutes to mesh those actions with collection authority.

There have been discussions to ensure getting information out to guide remote vendors, sellers and all sellers to make implementation as seamless and transparent as possible. We are working at developing a format for a possible enhancement of our matrix and supplementary matrix for member states to look at with respect to exemptions. He said we do not want to make this burdensome and it would be on a volunteer basis. This would be a sample format that we would like to encourage states to use prior to enactment. We do not have to wait until the Federal Bill passes. President Harper thanked Richard Dobson for his work as Chair of the Federal Implementation Workgroup.

- **Audit Committee Report –Bruce Christensen, Chair**

Chair Bruce Christensen reported that the Audit Committee met on September 16-17 in Nashville. In the book they have noted the timeline of audit work to get ready. Mr. Christensen thanked the members from the states of Kentucky, Indiana, Minnesota and Washington for helping with the Audit Core Team. He said Indiana has agreed to provide another auditor with the Core Team to replace Bob Muller.

He discussed the Uniform Power of Attorney (POA) form that the Committee had worked on with Charles Collins, CSP. If anyone has recommendations, they should email them to him at [bruce.christensen@state.sd.us](mailto:bruce.christensen@state.sd.us). Once approved, the document will be on the SSTGB website.

At the Nashville meeting the audit rules were approved. They are reviewing the responsibilities for the Audit Core Team and the state audit responsibilities. They did more work in review of exemption certification information and there is a PowerPoint presentation on the website. It is based on Section 317, exemption administration.

They are also working on the auditor portal console project where all CSPs download transactions quarterly. As it grows they are getting more information and transactional data.

The single audit details are not available yet. If it does come down to that, one of the stumbling blocks is where you would appeal it to.

All the documents they are working on are out on the web page. They want to ensure that they have good current docs out there. Craig thanked Bruce for his leadership of the Audit Committee.

- **Certification Committee Report – Tim Bennett, Chair**

Tim Bennett, Chair said they had met in Nashville on September 18-19, working on changes to the minimum standards. There were changes and they formed a sub-committee with the CSPs. He said they are working on getting that sub-committee off the ground.

The committee approved updates to the implementation guide as well.

Craig Johnson said they are putting the taxability matrix into an online format. It will look like the current taxability matrix, and when it comes out, it will be pre-populated with the information the states have provided in their current matrices.

Each year, rather than having to copy/paste the information from the prior matrix onto the new matrix, states will be able to take the existing matrix published on the SSTGB website and just make the necessary changes online. The old version will be stored for historical records and date stamped with a revision date. He said David Thompson has taken it upon himself to prepopulate the matrices as it exists today. If there are discrepancies, that information should be provided to David as soon as possible.

Tom Gillaspie asked if there is a password that they would have to enter when they are ready to update. David indicated there will be a login and password required from the state before any change can be made. David Campbell of FedTax said as a CSP, he is happy to see the taxability matrix becoming an online form. He said it is not very comfortable for a CSP to have to read and transcribe from a pdf to get taxability rules. He asked what the data feed source will be for

automatic consumption of this new resource. David Thompson said it will be a downloadable pdf.

David Campbell asked if there is a way to track the changes so his merchants are not liable for that error while a modification or correction is being made to the matrix. Craig Johnson said when the new/updated matrix is published it will be date stamped and the historical record will be there.

President Harper asked if there were question for Mr. Bennett regarding the simplification and there were none.

- **Proposed Rules for Discussion and Possible Action**

- **Appendix E – Testing Process for Certification of Service Providers/Automated Systems (Kentucky) – RFP13003**

Tim Bennett made a motion to accept RP130003, Appendix E. The changes primarily relate to fixing some grammatical errors, cross-references, and removing Section J since that will now be on the taxability matrix. The full member state roll was called with 17-voting yes, 5 absent and the motion carried

- **Appendix F – SST Reports (Kentucky) – RP13004**

Chair Bennett discussed a proposed change on page 9 of appendix F which was brought to the Committee by one of the CSPs and the Audit Committee. It adds a filed to the end of the schema to provide optional transaction information. Mr. Bennett made a motion to adopt Appendix F, RP13004 and there was no further discussion. The state roll was called with 17 voting yes, 5 absent and the motion carried.

Craig Johnson thanked Tim Bennett for his work in leading the Certification Committee.

- **Business Advisory Council - Levels of Compliance, Section 805 - MC13011**

Fred Nicely of the BAC referred to the PowerPoint in the publication regarding substantial compliance. He reported that Senator Harper had asked CRIC Chair Myles Vosberg and himself to look into this to determine the possibility of identifying different levels of compliance issues. He expressed his appreciation for help from Chair Vosberg and Craig Johnson's as well.

He stated that if there is a compliance issue, a state needs to be put on notice that they have a compliance issue that they need to address. Some can be addressed relatively quickly, while others may take some time for the state to get corrected. He referred to the draft of document, MC13011 and discussed the content.

President Harper said it is important that the business community look at this and he expressed his appreciation for their work.

Tim Jennrich asked Fred Nicely for the objective – to form a workgroup or amend the agreement. He asked about the language for relief to the fullest extent as possible. Mr. Nicely said the

ultimate objective is to have the states amend the section 809 of the Agreement. He said maybe it could be brought up at the spring meeting in Columbus.

Dealing with what's meant by the proposed relief – if you have a state that has a compliance issue, a seller is not aware of it, they did not collect tax on an item because of that compliance issue and they would have liability relief provided for that issue. Bruce Johnson said to the fullest extent possible, this needs to be made explicit.

In response to a question from Mark Nebergall, Mr. Nicely said he would have no problem working with some of the other states on drafting a short issue paper on this. Tom Gillaspie said he was concerned with the language, find a member state is not in compliance “with a requirement” and he asked if that is supposed to mean something. He said usually you're in compliance with the Agreement as a whole and not a specific requirement within the Agreement. Mr. Nicely said he believed that's with what is in section 805 currently.

President Harper said he had requested to have this item reviewed with multiple options to ensure it is clear and to determine if there should be varying levels of compliance, full compliance, minor issues, major issues, etc. He wanted to ensure that everyone is on board in the sanctioning issue so that everyone can see where Mr. Nicely's group is going and may provide additional information. He said we want to make sure the states and businesses understand it clearly. He would like to have Mr. Nicely put together an ad hoc group to work on it and then have SLAC review it and bring it back to the Board.

He asked for volunteers from the states. Tim Jennrich, Larry Paxton, Gina Dougherty, Bruce Johnson, and Eric Wayne volunteered to help work on this.

- **Proposed Bylaw Changes**

None

- **Old Business**

None

- **New Business**

Craig Johnson asked the attendees to save the date for the May 13-15, 2014 meeting to be held in Columbus, Ohio. He said there will be a December Governing Board teleconference and the primary purpose will be to discuss the CRIC State Recertification Report.

- **Adjournment**

President Harper thanked everyone for their attendance and participation. He reminded them to talk to the members of the House. With no further business Richard Dobson motioned adjournment at 11:22 AM central.