

**Streamlined Sales Tax Governing Board Meeting
May 14-15, 2014 Minutes**

Wednesday, May 14, 2014, 1:00 - 5:00 PM EDT

- **Welcome and roll call of member states**

President Diane Hardt called the meeting to order at 1:02 PM EDT. The roll of the states was called and 20 were present, and 4-states were absent, Kansas, Tennessee, Rhode Island and Vermont.

- **Opening Remarks – Ohio Commissioner Joseph Testa**

Joseph Testa, Commissioner welcomed the attendees to Ohio and reported that Ohio is well committed to the Streamlined Sales Tax Project. He reported that Ohio has done some important things to create a better business climate, including a \$2.7 billion tax cut. He said the Ohio Governor’s focus on sales tax has been public and visible. Commissioner Testa stated that Ohio plans to continue in that direction.

- **Approval of October 29-30, 2013 Governing Board Meeting Minutes – MM13002**

There were no recommended changes to the October 2013 Governing Board Meeting minutes. David Drovdal motioned approval of the minutes and they were adopted on a voice vote.

- **Approval of December 19, 2013 Governing Board Meeting Minutes - MM13003A01**

There were no recommended changes to the December 2013 Governing Board Meeting minutes. Michael Eschelbach motioned approval of the minutes and they were adopted on a voice vote.

- **2014 Strategic Plan - MC14001**

President Hardt discussed the 2014 Governing Board goals that are published in document MC14001.

- **Reports of Committees**

- Executive Committee – Diane Hardt, President
 - Marketplace Fairness Act of 2013 Bill Status and Federal Legislation
 - Judiciary Committee Hearing Summary and Discussion

President Hardt reported that Michael Jerman will provide an update on the MFA bill status the following day and we will discuss the Judiciary Committee Hearing later today.

- Discussion of Central Registration System Updates

President Hardt said the proposals and bids received were reviewed in detail by the Review Committee and the Executive Committee hopes to have a contract in place very soon.

- CSP Contract Discussions

President Hardt said the CSP Contract team has had a couple of full meetings with the CSP’s and have another one planned for Thursday afternoon and Friday morning. The CSP contracts expire at the end of 2014. She said the Committee wants to bring new contracts back to the Governing Board for review, discussion and approval during the October 2014 annual meeting.

- State Compliance Recertification

President Hardt said there are four states which are out-of-compliance, Georgia, Indiana, Michigan, and Rhode Island. She reported that Senator Wayne Harper is heading up the review group to determine how to proceed.

- **Federal Legislation Implementation Committee Update – Richard Dobson, Chair**

Chair Richard Dobson referenced the two matrices drafts, MC14004 States Listing Exempt Services and MC14005, States Listing Taxable Services. He said the Federal Implementation Committee is trying to anticipate once Federal Legislation is passed, how the Governing Board states can provide additional information related to the exemptions and taxable services in each state. MC14004 and MC14005 are samples developed by various state and business community members that have participated in the teleconferences to create these drafts. There are two different forms of the matrix. For states that do not tax many services, one matrix would just have the states list the specific services that they tax along with their exemptions. The other version, for states that generally impose tax on services, is identical except for Part 3 where the state would identify just the exempt services. He said this format is not firm, but throughout this exercise the group is attempting to create a uniform format so that each jurisdiction could provide the detail necessary in the various general buckets that represent the various exemptions across the country as it relates to sales and use tax. The column headings are the types of things the subgroup has determined so far that they would like to track. He said the subgroup is still soliciting information to add to this document.

Craig Johnson said that some members of the SSTGB along with the National Council of State Legislatures (NCSL) and the National Governors Association (NGA) have worked together to develop a proposal related to audits of remote sellers for both those sellers using a CSP and those sellers not using a CSP. Craig stressed that this was just a proposal that the organizations wanted to outline in an effort to get feedback from the states and business community.

Craig Johnson said the solution and bottom line is the remote sellers using a CSP will not have an audit burden. The CSPs are the ones that will be audited. In developing the proposal along with NCSL and NGA, the goal was to come up with ideas on the audit burden. One proposal is that if a remote seller has less than \$5,000,000 in total sales in a calendar year they will not be subject to audit by any state in which that seller does not have a physical presence as long as the seller is properly registered and there is no suspected fraud. For remote sellers with total sales between \$5,000,000 and \$20,000,000 a simplified coordinated audit would be available to the seller for all the states in which the seller is a remote seller. For sellers with over \$20,000,000 in total sales states would be able to audit them as they audit sellers today. John Doyle said under the simplified audit process, he suggested that \$5,000,000 be added with individual states entering in a multi-state Agreement with each other. President Hardt asked the group to email Craig with any ideas they may have. For this proposal, Fred Nicely asked if you go to a single audit is this voluntary and not something that the states can mandate. Mr. Johnson indicated that the proposal is that it be voluntary at the seller's option – not the state's option.

- Finance Committee – Victoria Daniels, Chair
 - Third Quarter Financial Report FY2014 – FR14001

Chair Victoria Daniels reported that the Nashville Capital Bank account was moved to the Westby Co-op Credit Union (WCCU) in Wisconsin. The type of account at Wells Fargo has also been changed so that the monthly bank fees that had been charged were no longer going to be charged because of the limited number of transactions each month and the significant balances the GB maintains in those accounts. The fees that had been charged more than offset any interest earned on the account and the balance is shown as negative Investment Income on the financial statements. Chair Daniels said the Finance Committee has recommended going forward that a Bank Fee expense line item be added in the FY2015 and subsequent budgets. She reported that the expenditures for FY2014 are about where they should be for the third quarter. The state membership dues invoices were mailed on May 1 and the dues increases are reflected within. As previously approved, the dues were increased from \$755,000 to \$955,000. During the October 2013 Governing Board meeting a 3% increase was also approved for FY2016 and FY2017. Michael Eschelbach made a motion to approve the third quarter financial statement which was approved on a voice vote.

- FY2015 State Membership Dues and Invoices

Craig Johnson discussed the FY2015 state membership dues and the invoices were mailed to the member states on May 1.

- Compliance Review and Interpretations Committee – Myles Vosberg, Chair
 - Prepared Food Interpretation – IO13003 and IO13004

Chair Myles Vosberg said there was a request for a CRIC Interpretation in September 2013 regarding Take N Bake Pizza. President Hardt said the Wisconsin Department of Revenue and Michael Herold originally requested this interpretation jointly. She said that Craig Johnson has received a letter from Michael Herold stating that he was withdrawing his request, but the Wisconsin Department of Revenue continues to ask for the interpretation. The interpretation was discussed at the previous Governing Board meeting, but was not voted on at that time as there was an interest by some states and the business community to create a new toggle to allow states to remove these items from the definition of prepared food so that states could continue to treat them as non-taxable foods if they so desired. A workgroup was formed to develop the toggle language. Those involved with the workgroup included Myles Vosberg, Pam Cook, Fred Nicely, Tim Jennrich, Dan Noble, Jody Bartels, David Steines, Brian Ertmer, Mark Nebergall and Michael Herold. The results of the workgroup will be discussed as proposed amendments to the SSUTA.

- Proposed Amendment to SSUTA Appendix C - Prepared Foods Definition - AM14002A01

Craig Johnson said a motion was made by Minnesota, North Dakota, South Dakota, Washington and Wyoming to amend Appendix C of the SSUTA relating to the definition of prepared food. The amendment would allow a state to exclude from the definition of “prepared food” food that would ordinarily require additional cooking or baking, but not re-heating by the consumer prior to consumption. This exception is relatively narrow.

John Doyle said he felt that cooking included baking, broiling, frying and renders baking unnecessary. Craig Johnson said there was discussion regarding additional cooking, baking or broiling. John Doyle said cooking is defined as preparing food by heating. Tim Jennrich said he thought the toggle language was clear enough to have consideration. This particular toggle give states flexibility in a straight forward and simple way to toggle off and on the tax on these types of products if a state’s legislature so desires. Tim indicated that he thought it was a good policy decision to allow it. He reported that SLAC had voted only on the Interpretation and only two states were opposed. Senator Peters asked which two states were opposed to Interpretation during the SLAC vote. Kim Conroy replied that the state of Nebraska does not consider the Take N Bake Pizza to be prepared food and has not been taxing them. Nebraska has adopted all of the definitions and she felt they would have to adopt that toggle in order to be able to continue to not tax it. Victoria Daniels said in Iowa they had the same situation as Nebraska. They had performed a survey and are not taxing these items currently. Senator Dwight Cook said if this amendment passes, they will amend their North Dakota state code. Mary Engr Edson asked why the CRIC Interpretation on food items needs an amendment. President Hardt indicated they were prepared to approve the CRIC decision but there were persons on the Governing Board and in the business community that wanted us to create a toggle. Tim Jennrich said the workgroup was trying to develop a toggle which would be very easy to apply. Jerry Johnson said an additional issue is that what was anticipated in these definitions was that we would have a uniform treatment. In this case, states were doing it two different ways. The process evolved to say let’s give states the option of picking the way they want to do it. Craig Johnson said if you don’t move forward with this CRIC Interpretive Opinion, you will end up with different states who laws may read exactly the same treating the same product differently. By adopting the CRIC Interpretation and the toggle, states can continue doing what they are doing today and states will be able to clearly indicate on their taxability matrix how these products are treated. Senator Cook said he is prepared to support the

toggle and in his opinion, it doesn't put any undue burden on any seller. Victoria Daniels said in the technical world, new products are going to come out every day and may require making additional changes. She said the Governing Board has to address and show people that we are able to adapt. Richard Prem said the BAC discussed this at their meeting this morning. There was consensus of people who had a fear of going into a slippery slope with this issue. He said the BAC took two votes, a motion to support the Take N Bake Pizza amendment and to oppose the raw food amendment. There was a second vote to oppose both amendments with 15 yes, 1 no and 5 abstentions. The main concern was that they would have to classify these items within their systems. John Doyle moved that an amendment be made to the amendment under number 4, for the word "baking" to be struck from AM14004. Dwight Cook asked for an explanation of the difference in cooking and reheating. Victoria Daniels said she would consider cooking to be changing something from a raw state to a cooked state. The roll of the states was called for the aforementioned motion to amend the amendment to strike the word "baking," 18 states voted yes, 3 no, 1 abstention, 2 absent and the motion carried.

Tim Jennrich made a motion to approve the CRIC Interpretive Opinion, IO13004 and AM14002 as was just amended. Tim's motion was to approve CRIC Interpretive Opinion 2013-3 and the Prepared Food Amendment as just amended together. As part of this motion, each member state will update its taxability matrix and submit it to the Executive Director by June 30, 2014 to reflect how it treats the products covered by the toggle added to the prepared food definition. A state that does not currently interpret the definition of "prepared food" to include these types of products in its definition of prepared food may indicate this on its taxability matrix without changing its statutory definition of prepared food. However, if the state wants to exclude these products from its prepared food definition after January 1, 2017, the state shall implement the toggle through a law change, regulation or other written policy. Eric Wayne said this is a very narrow opinion for one type of pizza. He asked how it can be anticipated that some states may treat the specific item as food but some may treat it as prepared food. Do we think the Taxability Matrix is going to be descriptive enough? He asked how the Taxability Matrix is going to specifically be worded. Craig Johnson said on the prepared food the toggles are listed and there would be a reference to this Interpretive Opinion so people know this is out there if they had any questions. Richard Prem said you could have raw sausage versus cooked. You would have to look at the actual words of the definition. Senator Peters said if one retailer has a deli that prepares pizza with all the toppings and a retailer that sells them cooked, baked, fried or grilled, then you have somebody that has sold them a raw pizza with similar products and those would be taxed differently. President Hardt said the amendment only addresses food that is "made by the seller." In 2002, restaurants, grocery stores and all types of businesses went through this definition word for word and this is what was agreed upon. Craig Johnson repeated the motion that Tim Jennrich had proposed. The roll of the full member states was called, 2 states voted no, 21-yes and the motion carried.

- State and Local Advisory Council – Tim Jennrich, Chair
 - Sourcing of Digital Goods
 - Credit for Taxes Paid to Other States –

Mr. Jennrich reported that SLAC has spent a significant amount of time on this and it was also discussed by the SLAC yesterday. The Credits Best Practices will be discussed in detail and provided to the Governing Board later today or tomorrow. The BAC will also be following up recommending a method by which Best Practices can be identified.

- Post transaction procedures – SL14006 and SL14007

Richard Prem reported on the post transaction issues and provided a brief description. Phyllis Shambaugh and Fred Nicely will work together to define the scope and anticipated work product.

- Continued Education – Tim Jennrich

Mr. Jennrich said there are ongoing membership changes and people move on and questions on the Agreement requirements continue to arise. He reported that SLAC will work to provide continued education to new members so there is a consistent message to this body.

- Sales Tax Holidays – Water Sense Products – AM14001

Mr. Jennrich said during the SLAC meeting the amendment related to sales tax holidays for WaterSense products was favorably received.

- Prepared food – Certain Meats and Seafood – AM14003

Mr. Jennrich reported that with respect to the definition of prepared food and the amendment that would allow a state to exclude only meat and seafood products from the definition of prepared food, 23 states voted in favor of the proposed amendment which will be up for consideration by the Governing Board today or tomorrow. Senator Balfour said he would consider meat and seafood as food and was not sure why the amendment was needed. Bruce Johnson said there was a clarifying amendment that was offered at SLAC. The amendment offered would allow a state just to exclude meat or seafood sold in an unheated state by weight or volume, as opposed to having to exclude all food products sold in this manner. Bruce further explained that under the current Agreement any state could exempt a pound of coleslaw and a pound of steak. However, Minnesota doesn't want exempt all of the food products, but instead only wants to exempt meat or seafood. That's why the clarifying amendment is necessary. Bruce Johnson offered a substitute motion which was "only meat or" seafood. Craig Johnson said the motion is to add a semi-colon at the end of a. on AM14003, insert the word "only" before "meat" and strike the "and/". The roll of the states was called, 21 voted yes, 2 no, 1 abstained and the motion carried. A motion was then made to approve AM14003 as just amended. The member state roll was called, 21 voted yes, 2 no and the motion carried.

- Business Advisory Council – Rich Prem

- Disclosure and Best Practices Draft – MC14006 – Richard Prem, BAC Chair

Richard Prem discussed the Disclosure and Best Practices draft, MC14006. He gave credit to Fred Nicely and Deborah Bierbaum for their time and efforts with the white paper. He said the BAC proposed that they believe there's benefit in getting a group to build a road map process to get from disclosed practices to best practices. They are not asking the Governing Board to take a vote today, but ask that the Governing Board consider other issues by putting a task force together to bring back to the Governing Board Meeting in October. President Hardt identified the workgroup as Tim Jennrich, Richard Prem, Deborah Bierbaum, Russ Brubaker, Chad Paulson, Gina Dougherty, and Fred Nicely. President Hardt referred to the October 2013 minutes, MM13002. She stated that Best Practices was voted on at the October 2013 Governing Board Meeting. Richard Prem said the business community thinks there's a lot of value in the Best Practices but feels there is value in disclosure to see what each of the states are doing. He said to be clear, they are not saying let's eliminate Best Practices, but instead introduce a system to start a disclosure of a practice and then consider moving a particular practice to a best practice after the states have disclosed how they treat a particular issue. The plan is that this group will have a proposal for consideration at the fall Governing Board meeting.

- Audit Committee – Bruce Christensen, Chair

- Report of Charlotte Meeting, March 5-6, 2014

Bruce Christensen said the Audit Committee is in the process of the fourth round of contract compliance audits and tax compliance audits of Model-1 Sellers. They did a state auditor training in January by webinar, developed an audit plan and went through it during the training. They met on Mar 5-6, 2014 in Charlotte, NC. There were 15 states attending in person and seven via teleconference. Craig Johnson said he strongly encouraged the states to participate in these meetings to help ensure their state is

following the Agreement. The Audit Committee posted a PowerPoint on the Exemption Certificate training on the Streamlined website. He encouraged the states to use that PowerPoint and ensure that it gets out to the state auditors. The PowerPoint is based on Section 317 of the Agreement and the SSTGB Rules. The next meeting of the Audit committee will be on August 7-8, 2014 in Omaha and the agenda will be emailed very soon.

- Certification Committee – Tim Bennett, Chair
 - Report of Charlotte meeting, March 3-4, 2014

Tim Bennett said the Certification Committee met on March 3-4 in Charlotte. They went over the CSP's concerns and issues. He said we have two new CSP applicants. In RP14001, Kentucky is proposing a change to Appendix A which outlines the certification process to try to make it an easy to follow document that can be walked through to ensure the CSPs meet all of the qualifications. The week of April 22-25, 2014 site visits were made to the prospective CSPs by Tim Bennett, David Thompson, David Kolb, Steve Krovitz and Craig Johnson. The discussions included where they were in the process and there was a mutual agreement from one of the applicants that they were not ready to move forward at this time. They will revisit the application process when they are ready for system testing. With respect to the other applicant, Mr. Bennett encouraged all states to be prepared to start testing and getting ready to review the applicant's taxability rules. In addition, the applicant will also need to send sample SER's and states will have to make sure their test decks are successfully processed. The system testing will hopefully be completed by the October Governing Board meeting. It is important that the states update their taxability matrices as soon as possible and recognize that they will be getting these taxability rules. Tim said this applicant cannot be certified until all of the member states have approved them. The next meeting of the Certification Committee will be held in Omaha on August 5-6, 2014.

- **Judiciary Committee Hearing Summary and Discussion**

Craig Johnson discussed the proposed alternatives discussed at the Judiciary Committee Hearing. Steve Kranz testified at the hearing and Mr. Johnson thanked him for his efforts. Steve Kranz said the hearing was over 3-hours of an entertaining discussion of numerous debates. Craig walked through each of the proposals and Steve explained the problems with each of the proposals, the additional burdens that would be imposed on sellers and for some of the proposals how it could actually be a tax increase. There was significant discussion surrounding the origin-based and hybrid-origin based proposals and the problems that this could lead to, including the likelihood that it would result in a tax increase for any purchasers located in a lower tax rate jurisdiction that makes a purchase from a retailer in a higher tax rate jurisdiction. There was also discussion on the loophole that would be created if origin based sourcing was used, especially for those businesses located in nonsales tax states.

Steve DelBianco indicated that he appreciated the time given to discussing the proposals but that it is unknown as to where it will all go from here.

President Hardt announced that the meeting would reconvene on Thursday, May 15 at 8:30 AM EDT and the meeting adjourned at 5:00 pm EDT.

Streamlined Sales Tax Governing Board Meeting

Thursday, May 15, 2014, 8:30 AM EDT

President Diane Hardt called the Governing Board Meeting to order at 8:31 AM EDT as a continuation of the May 14 meeting. The roll of the states was call, 20-member states were present and 4-absent.

- **Discussion of Federal Affairs Contracts**

President Hardt introduced Randi Reid of Kountoupes Denham. Ms. Reid thanked the Governing Board for having her at the meeting and provided her background. She left Capitol Hill in 2013 where she had worked for 13-years and part of that time with Senator Michael Enzi. In working for Senator Enzi she spent 8 of 12 years as his Legislative Director. He has worked on the eFairness Bill for a long time. She has personally worked on that bill for him since 2000 and since leaving the Hill and going into the private sector. She said she was approached by President Hardt and Craig Johnson to help represent the Governing Board and gladly accepted. She has contracted with the Governing Board through Kountoupes Denham as a Federal Lobbyist.

- **Coordinating Efforts With Other Organizations - Neil Osten and Max Behlke, NCSL**

Neil Osten said that as he, David Quam and Max Behlke reported at the last meeting they are working together on Capitol Hill, along with the Governing Board and coordinating their efforts. He also welcomed Randi Reid's participation. Before last year, NCSL had two major lobbying days and have made a lot of progress in the past year. He encouraged the attendees to contact their Congress people to support MFA

Max Behlke said that our organizations have been working with Congressmen Chaffetz (UT) and providing input and suggestions on possible changes to the Senate passed version of the MFA to help it move forward in the House. Senator Kenley said he visited in November and all nine of the Indiana Congress people, including the conservatives are on the same page, but it seems like the problem may be Chairman Goodlatte. He is throwing out all kinds of versions of this issue. He said he didn't know if the Governing Board needed to invite him to the SSTGB Meeting to speak. Randi said she doesn't think that Chair Goodlatte is opposed. He and his staff are working through the issues. She said it's only natural to let him work through what he has been doing for the past year. Senator Kenley said a lot of the issues that are coming forward now have been discussed by this group for the past 10-years. He said the outside perception is that Goodlatte is trying to block this. Mr. Osten said when Chair Goodlatte released his principles in December, he said this is not a new tax. This is a compliance problem. During the hearing in March a lot of people said this is the tax that's owed. There are still members of Congress that do not understand it. NCSL, NGA and the Governing Board continue to work with the Committee staff and answer their questions, but the complexities don't go away. Curt Bramble said it's important to be very plain spoken on what the challenges are. He said it seems there's a great deal of confusion that's going on as well. Neal Osten said Chaffetz is working on a proposal and once released we might be able to see quicker action in the House. He said the Legislators need to continue to visit DC. Randi Reid said she's also had this discussion with Chair Goodlatte's staff. He has been saying to Democrats and Republicans, if you have policy ideas concerning eFairness, bring them to me for discussion. Congressmen Jason Chaffetz has been working on the issue and Democrats have reached out to him as well. Goodlatte is still working on some of his policy issues. Senator Bramble said with all due respect, there's a growing sense of urgency. We continue to hear verbal responses and this needs to get done. Randi wholeheartedly agreed and said she has worked on this for a very long time and that her goal also is to get this done.

- **Proposed Amendments and Rules for Discussion and Possible Approval**

- **Georgia Motion to Amend Appendix C - AM14001**

Amy Oneacre explained the motion provided in AM14001 which is to provide a definition of WaterSense products for sales tax holiday purposes and motioned the approval. Craig explained that this definition was drafted consistent with how the definition of EnergyStar products was drafted in the SSUTA and explained that only those states that want to offer a sales tax holiday on these types of products would be required to adopt the definition. The roll of the states was called and with 21 yes votes, the motion carried.

- **Appendix F Amendment to Rules – RP14003**

Bruce Christensen said the CSPs provided electronic data which is on the FTP site and now that has been changed due to a new format for it to come in. In the past the CSPs were required to send the data quarterly and will now only be required to provide it annually. Mr. Christensen made a motion to pass an amendment to the rule referenced in RP14003. Richard Dobson asked in the discussion regarding changing the frequency of the reports to the annual basis, would the size of the files be an issue to the states. David Thompson said the reports will be on the website for download and will be no problem to the states. The roll of the full member states was called and the motion passed with 22 yes and 1 absent.

- **Certification of Service Providers - RP14001**

Tim Bennett explained the rule change to 501.2 regarding certification of service providers in RP14001 and made a motion to approve. The roll of the full member states was called and the motion passed with 22 yes votes and 1 absent.

- **Certification Process-Appendix A– RP14002**

Tim Bennett explained the change as noted in RP14002. Craig Johnson said there are two new CSP applicants and he felt that this update is important to make the step-by-step approval process as clear as possible. Tim Bennett made a motion to pass RP14002, roll of the full member states was called, 22 voted yes, one absent and the motion carried.

- **Miscellaneous Discussions for Possible Approval**

- **Certificate of Compliance Update – MC14002**

Craig Johnson said the first change in document MC14002 is to add Section 318 which asks whether the state allows any seller to file the SER. The other change are in Section 328 which deals with the Best Practices amendments that were made to the Agreement last year. It asks if the state has completed the best practices portion of the taxability matrix. Question C-2 in Section 328 addresses a provision approved at the last Governing Board Meeting with respect to liability relief if a state changes its taxability matrix. In Section 335 the best practices language was added to the Certificate of Compliance. At SLAC on Tuesday, the explanation paragraph in the left column was reworded to be consistent with the language contained in the SSUTA itself. The question regarding Section 402 is reworded to make it clearer. Finally, information was added related to the CRIC interpretations that had been approved and added references to those under definition of prepared food that was approved at the Governing Board meeting on May 14, 2014. President Hardt made a motion to change the Certificate of Compliance as Mr. Johnson had referenced and the motion carried on a unanimous voice vote.

- **Taxability Matrix Section 328 – MC14003**

Craig Johnson referenced the language changes in MC14003. Tim Jennrich said that SLAC approved this on May 13, 2014. It was also noted that the Best Practices Matrix was added to the end of the document and made a part of the taxability matrix. Language will also be added consistent with the amendments that were approved yesterday related to “prepared food.” There were no questions or comments. President Hardt made a motion to approve and the motion carried on a voice vote.

- **Michael Jerman, Legislative Director**

Senator Wayne Harper introduced Michael Jerman who is the Legislative Director for Representative Jason Chaffetz. He said Representative Chaffetz has stepped up to take the lead to work on changes to the Marketplace Fairness Act (MFA). Mr. Jerman said he has worked on this sales tax issue for about 10-years and is one of the few people on the Hill who understands it. Congressman Chaffetz was asked by several groups to work on this Legislation and expressed interest and support. Mr. Jerman provided an update as to what Chaffetz is looking at regarding the MFA. Overall this issue has made progress over the years. Five years ago there wasn't as much support. A lot of Republicans, including conservatives

support this issue now. It's difficult to say we should exempt sales from taxation. Parity and economic neutrality are very important concepts.

- Obstacles

Mr. Jerman said that some members of congress see this as a tax increase. Others say we will be paying more to the government this year as opposed to last year so that also makes it a tax increase. Most of the remote sales that are not taxed right now should have been taxed 30-yrs. ago. As far as Chaffetz is concerned, the questions as to a possible tax increase is something that the states should work out. Congress shouldn't be telling the states how to do this as long as it's constitutional.

There are concerns about audits, including demand letters. We have worked with Streamlined, the National Governing Association (NGA) and the National Conference of State Legislatures on this and can come up with a workable solution.

Software packages are already out there, however one concern that has been brought up is how difficult this may be to integrate. Mr. Jerman said in addressing them they have looked at potential changes to the MFA. The first thing they had noticed is that the current legislation states the software should be provided free of charge, but the integration costs etc. are not specifically mentioned. He said that is probably an oversight in the current bill.

- Key Areas They Are Working On

- Software and integration

The software needs to be provided and clarification is needed that the seller gets to choose which software they want to use. The integration costs also need to be covered including classifying products into the right categories. CSPs do most of this.

- Audit Issues

Regarding audit issue, Mr. Jerman said those that were on the fence and open to the concept of tax fairness and lower rates generally like the idea that the CSPs would be the ones who are audited. Before this came out it was said that department of revenues were not interested in auditing small retailers anyway.

- Small Seller Exception

On the small seller exception threshold, there is a question of whether we should have one and how much should it be. Congressman Chaffetz came up with this 4 or 5 years ago. Currently the amount has not been determined. For those concerned about the rollout phase-in's, are always good. Over time as this becomes more and more seamless. We are thinking about starting with a higher threshold and will phase it down to a very low number over a period of years.

- Preemption

He said that Overstock had brought up the pre-emption clause. They ask why the clause is even in here and we said we don't know, it looks like a boiler plate. This provision pretty much guts the bill, so until we get a good answer, Congressmen Chaffetz does not want to include that provision.

- Third Party Liability

When a seller inadvertently overcharges a buyer on his sales tax, can the remote seller may be sued for over collection?

- Statute of Limitations

On the statute of limitations, Congressman Chaffetz said he intends to include the Hatch amendment or something similar.

They have talked to outside groups and have made a lot of progress and appreciate the input being provided.

- Origin Sourcing

On the Origin Sourcing issue, Congressman Chaffetz has serious concerns on this. The reason most of us are here are is for economic equality. If origin sourcing is used, then when a person buys from an origin state and another person buys from a nexus state, it's still not going to be equitable. Origin sourcing can also lead to tax havens as well as tax increase for persons located in low or no sales tax areas and making purchases from sellers located in higher sales tax areas.

John Doyle addressed Mr. Jerman stating that early in his presentation he had talked about this not being a tax increase. Mr. Doyle said it sounded like Mr. Jerman said under certain circumstances it might be. Mr. Doyle said there's a difference between a revenue increase and a tax increase. Michael Jerman said he did not dispute that and the Congressman's position on this is to let the states decide as it's a state revenue source.

Senator Luke Kenley thanked Michael Jerman for working on this and stated he is pleased that Representative Chaffetz has decided to follow-up and make that commitment. He commented on the small seller exemption. Chaffetz encouraged Mr. Jerman to keep it as small as they can. The brick and mortar business does not have an exemption. Mr. Jerman said on the principle policy side, when you make a change, phasing in the change is a good idea. Some agree on this issue but still have concerns. Most people agree that software can handle this and it is not just theoretical. The large multi-state businesses have been collecting sales tax for years in all of the states. There are already a half dozen CSPs and the software does what it is supposed to do.

Phyllis Shambaugh asked if the MFA will remain as a standalone bill and Mr. Jerman said he does not know. He stated that the focus right now is adopting a bill that they feel comfortable introducing. There are numerous bills that it could be packaged with including ITFA, BATSA, mobile work force, and digital goods. The first thing to do is get a bill that's worthy of support and there are a lot of nuts and bolts issues to work out. It's difficult to come up with a bill that's perfect. Our country was founded on compromise and this is a complicated issue.

Ms. Shambaugh asked in reference to including the requirement to provide the free software integration whether there would be a cap on the integration cost? Mr. Jerman said he did not know and they would look at other issues such as integration classification, however that is not going to happen overnight. Some sellers have only a couple of dozen products and some even have fewer than that. He said this is an issue that we are still working on.

Russ Brubaker said you cannot get to a perfect bill, but it's apparent that Representative Chaffetz is working on it. He asked for the sense of the timeline in getting close to perfection. Mr. Jerman said this is one of Congress's top priorities. As Legislative Director, Mr. Jerman said he handles everything from tax to healthcare, social security and many other things and spends more time on this than anything else. He said they definitely want something sooner than later. There are various timelines out there, such as Congress going into recess and the election year coming up. They would like to get this resolved before the end of the year.

Jerry Johnson said one of the things the Governing Board is working on is trying to improve the Central Registration System because they don't want this to be implemented and people not having a way to register for all of the states at one time and wondered if this would be included in the bill. Mr. Jerman said they will look into that.

Senator Cook said he was concerned for the integration cost. The services that they sell their customers are much more than collecting sales tax and is a much bigger package. How is that going to be separated? Mr. Jerman said they have never addressed that but as far as segregating it, the whole integration cost was just looked at very recently. He said that was a valid question.

Mr. Jerman said they have talked to Chair Goodlatte and staff quite regularly on this Bill. Chaffetz is committed to working with the chair on getting this done. Chair of the Judiciary Committee is a big responsibility and we certainly understand the chairman's commitment to getting this done. There's been some discussion about whether the Chair is helping or hurting this cause. The Chair is out there in good faith, looking for a solution that satisfies all parties such as the brick and mortar and remote sellers. He said they want to be sure their concerns are addressed. The goal is to come up with a policy that improves the status quo and does not put anyone at a disadvantage.

Wayne Harper said he appreciated Congressman Chaffetz' leadership and Mr. Jerman's hard work on this. President Hardt said it was a pleasure to have Michael Jerman at this meeting and the Governing Board looks forward to his work in the remainder of 2014.

Credits-AM14004 and AM14005A01 – Tim Jennrich

Tim Jennrich stated that AM14004 and AM14005A01 represent the changes made by SLAC at the May 13 meeting. The results of the workgroup is the Best Practice 2 discussed at the last GB meeting which was not approved. The Wednesday SLAC discussions identified 16 practices and there were 25 yes votes with 1 no to move this forward. President Hardt asked for discussion of Best Practices 2 on tax credits. Bruce Johnson said he supports the proposals by the SLAC Workgroup and lots of work had been done on the amendments that SLAC suggested.

Mike Eschelbach said in 2.3, 2.4, and 2.10 there are two different practices identified in those areas. In his opinion, he felt it was not sensible to identify two different areas as Best Practices in Section 2.10 and would like to see those areas excluded. Bruce Johnson stated that he understood that position but felt the taxpayer's still need guidance on these and the position the states are taking. He felt it's more important to get the guidance out to the taxpayers. President Hardt said the understanding between SLAC and BAC is that as soon as these are approved, the states would disclose their treatment of these items. In addition, there would be consideration of making these disclosed practices and then subsequently identifying which of the practices are "best" practices.

Richard Prem said the BAC strongly encourages moving forward with all of these practices to get the guidance out there and to clean up the nomenclature later. Several people that participated on the BAC recommendation that getting this guidance sooner rather than later is good for the business community. Mr. Prem said as was observed by President Hardt, we have been discussing Best Practices and the Matrix repeatedly. He said whatever it is characterized as by name, it's a good work product and creates good guidance. There are a lot of issues that the Board will have to address in the coming months. If we do not address this now, we may be overrun with other issues. It would be very unfortunate if this has to be tabled. In substance it's a good product and the information is reliable and does create some transparency and Fred Nicely agreed. Folks have been working on this 3-year tax credit project. It's a very comprehensive document which is very important to the business community.

John Doyle said tax paid means the tax that was remitted and previously due and we're only going to call a tax, tax paid if it were due in the first place. He suggested amending the word "paid" after number-1. Tim Jennrich said he believed the reason "paid" was used is due to most of the state statutes. Dan Noble said there are currently 3-options in the Best Practices. He asked why there would be a problem with not labeling them as what they are. Craig Johnson suggested putting them through as Best Practices as proposed and then consider changing them to disclosed practices, or whatever we want to call them, at the next meeting after more time is spent looking at the options. Jerry Johnson motioned the adoption of the amendment and the matrix together, AM14001 and AM14005A01. There was no further discussion or comments. The roll of the states was called and 22 voted yes, 1 no, 1 absent and the motion carried.

- **Executive Director Update**

Craig Johnson said the next Governing Board Meeting will be held in Rapid City on October 6-8, 2014. Senator Deb Peters invited and welcomed the attendees to Rapid City. She said there will be a tour outside of the meeting schedule with opportunities to visit Mt. Rushmore and other places of interest.

- **Switch to 3-year contract – Craig Johnson**

With respect to the CSP contracts, we are looking at the possibility of 3-year contracts going forward and would be interested in knowing if states had any issues with that? If so, let me know.

- **Online Taxability Matrix**

Craig Johnson said the new online taxability matrix has been reviewed by all of the states with all state information available. David Thompson said there is a tab in the online SSTGB website to the Taxability Matrix with links for the matrix and instructions. Under the basic instructions you have all the individual states. Click on the state that you want and you have the ability to either download the matrix or print for each state. It also has any previously published matrices, but each time you make a change those will be under previously published and only the current version will come up for that state unless you go specifically to the "previously published" tab. You can also print the old versions. Each state will be given passwords and a user ID to edit and save. Once changes are made and saved, a state will need to notify David to publish the new version. States cannot publish them on their own. Craig Johnson said the reason they are to come back through David Thompson before the public can see it is to have a clear trail as to the effective dates of the changes and each version that is published. Mr. Thompson said also there's a Taxability Matrix change tab and a form that will be sent to him by the states to indicate what they changed on their matrix by reference numbers. There were no reference numbers initially on the taxability matrix, but by now having them on the taxability matrix, it's much easier to identify the changes. He said you can look at the table to find out what changed from one version to another. Craig Johnson explained that the states will not have to do a new taxability matrix in paper form each year from now on, but instead will only have to make the changes electronically to show what changed from one year to the next. The Certificate of Compliance is something that he would like to do this with as well, but he wanted to take it one step at a time and once the bugs are worked out with this, then we will look to doing the same thing with the Certificate of Compliance. Mr. Thompson said the changes approved today by the Board will go on the next version. When you edit for the first time, those changes will automatically come up so you will not have to worry about the titles.

Craig Johnson said all of the states will receive a survey regarding the Internet Tax Freedom Act that is scheduled to expire November 1, 2014. He has worked with representatives from the industry, developed a survey to find out what each of the states expect Internet service providers to do from a sales and use tax standpoint on November 1, 2014 if the ITFA expires. He said the surveys would be sent out very soon and he would like as prompt a reply as possible on them to help provide direction to the industry.

- **Interpretive Opinions of the Agreement**

Craig Johnson said there is a process for CRIC to allow expedited ruling requests. For example, the Take-N-Bake Pizza Interpretation was an expedited request. He asked President Hardt if he and Chair Vosberg could work on that rule to change the comment period and she agreed.

Craig Johnson asked if anyone had any additional questions or comments they wanted to make at this meeting. Senator Dwight Cook said years ago the Governing Board set-up the CAS (Certified Automated System) option for sellers and he wondered where that was today. Craig Johnson said there is currently no one registered as a CAS (Model 2). Each of the CSP's have a CAS. Senator Cook asked if we need to do anything so there's a better tool to help reduce the burden of collections. Mr. Johnson asked the CSP's for their thoughts since they are the ones that have the CAS's. Richard Prem said one of the issues was a concept of people having software itself and not using a CSP to file the remittance and returns. Another issue is that the software itself needs to be implemented. There was also discussion as to whether there would be the ability to certify the software of individual businesses. He felt they should revisit it. He would volunteer to help look at that as an issue. Richard said that was more the model 3 type seller. Dwight Cook indicated that maybe the CAS model should be removed from the Agreement or possibly create a workgroup to look into it further. Matthew Walsh said there are a number of business that will not use those. Scott Peterson agreed that there seems to be a number of retailers and businesses who are afraid to use this model. President Hardt said that she and Craig will look at this.

Craig Johnson encouraged the attendees to contact him with questions, ideas or suggestions to improve this organization. He also encouraged the state legislators to meet with their federal representatives about having them support MFA and that if they did not want to do these meetings alone, President Hardt, Senator Deb Peters, Senator Wayne Harper and himself would be happy to make those visits along with them.

- **Old Business**

- Inviting non-SSUTA states to participate in Central Registration System, certification and cost

President Hardt reported that Craig Johnson has put together a proposal and she assigned it to the Executive Committee to work on in the future.

- **New Business**

None

- **Adjournment**

With no further business, David Drovda made a motion of adjournment at 11:08 AM EDT.

