

Streamlined Sales Tax Governing Board Meeting Minutes

October 2017

Cox Convention Center, Oklahoma City, OK

Wednesday, October 11, 2017, 1:00 pm – 5:00 pm central

Welcome and roll call of member states

President Dwight Cook welcomed everyone and called the meeting to order at 1:05 pm central. The roll of the states was called, 21 full-member states were participating, and the quorum was established. Absent were the full member states of Vermont and Kansas and associate member state Tennessee.

Opening Remarks

Oklahoma Tax Commissioner Clark Jolley introduced Dawn Cash, First Assistant Attorney General who welcomed the attendees to Oklahoma.

Approval of May 2017 Governing Board Meeting Minutes – MM17002

Senator Cook asked the attendees to review the minutes of the prior meeting and offer up any corrections or additions. No comments were received. Tim Jennrich moved to approve the minutes. The minutes were unanimously approved on a voice vote.

Status of Federal eFairness Legislation- Randi Reid

Randi Reid started by stating Federal e-fairness legislation continues to be discussed as a possible policy issue for consideration this year.

Since President Trump was sworn into office in January 2017, the congressional priorities have been focused on macro policies affecting the country, including, but not limited to, the Supreme Court nomination, health care, tax reform, infrastructure, and the budget/appropriations bills. The Governing Board continues to directly engage with policymakers in Washington with an immediate focus on Capitol Hill lawmakers to enact federal e-fairness legislation as soon as possible.

We are extremely fortunate to have strong House and Senate e-fairness champions that are committed and focused on finding a solution this year. These sponsors as well as many others in the Congress agree e-fairness needs to be addressed. It is fair to say that some congressional leaders believe that Congress needs to have a voice on the policy before the Supreme Court chooses to act again. This is why they reintroduced the House and Senate bills – The Remote Transactions Parity Act and The Marketplace Fairness Act – on April 30, 2017.

Randi provided updates on the House and Senate e-fairness activities since we last saw each other in May. The policy issue continues to evolve and our supporters are working towards a final federal solution.

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HOUSE UPDATE

At this time, two legislative bills have been formally introduced in the U.S. House of Representatives. Due to Congressman Jason Chaffetz (R-UT) resigning from his congressional seat this past summer, the House e-fairness initiative has a new lead working with Congressman Womack.

This year, Congresswoman Kristi Noem (R-SD) became the new champion of the House e-fairness initiative. She has been a strong supporter of e-fairness for some time and is well versed in the state litigation effort her home state of South Dakota has been pursuing. Congresswoman Noem is an active member of the House Ways and Means Committee focusing on tax reform, is well-respected by the current House Republican leadership team, and has deep ties to many members of the Republican Conference.

Kristi Noem (R-SD) and Congressman Steve Womack (R-AR) introduced H.R. 2193, The Remote Transactions Parity Act on April 30, 2017. The bill currently has 49 bipartisan cosponsors – 23 Republicans and 26 Democrats. The bill pursues a destination sourcing model for remote sales tax collection. This bill is identical to the House bill introduced during the last Congress. The Noem-Womack bill addresses several issues of concern raised after the Senate passage of the Marketplace Fairness Act in May 2013, focusing on changes to the small business exemption, audit procedures, software costs and integration, and liability issues.

The Governing Board remains very supportive of the Remote Transactions Parity Act and continues to provide technical guidance and input based on the experience and knowledge it has gained over the last 17 years in developing the Streamlined Sales and Use Tax Agreement.

The Governing Board representatives participated in 75 Capitol Hill meetings specifically focused on the House in May, June, July, and September in Washington to educate House congressional members about e-fairness and strongly encourage them to cosponsor the House bill. These meetings were critical in bringing on additional cosponsors, information gathering about the House's legislative anticipated actions, and assisting Congresswoman Noem and Congressman Womack with their personal outreach and education of their congressional colleagues.

On June 12, 2017, Congressman Jim Sensenbrenner (R-WI) reintroduced his bill, H.R. 2887, The No Regulation Without Representation Act. The bill currently has 10 cosponsors – 9 Republicans and 1 Democrat. This year's bill is much broader in scope than the version introduced last Congress, resulting in an unprecedented preemption of state sovereignty. It would codify the physical presence requirement established by the US Supreme Court in the

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1992 Quill decision. The bill would specifically define physical presence and it would likely halt state litigation specifically designed to overturn Quill.

On July 25, 2017, the House Judiciary Subcommittee on Regulatory Reform, Commercial, and Antitrust Law held a legislative hearing on The No Regulation Without Representation Act. South Dakota State Senator Deb Peters, a former Governing Board President, testified before the subcommittee, explaining how the Sensenbrenner bill would negatively impact states' sovereignty. She focused a majority of her testimony on the importance of states' rights, and why e-fairness needs a federal solution today. She also stressed that the Sensenbrenner bill tries to adopt a one size fits all solution, which the e-fairness issue does not clearly fit into. There has been much reported about the hearing and the hearing itself may be viewed on the House Judiciary Committee website. A detailed transcript of the hearing can be provided by Craig or Randi.

The Governing Board remains committed to securing a destination-based approach and solution. The Board will not support an origin-based approach - the Governing Board has over 3,500 active registrants collecting and remitting the tax so we know the process we have developed works.

The Governing Board continues to work with the House Republican and Democratic leadership teams, Congresswoman Noem, and Congressman Womack to find a solution that is fair to all parties involved – sellers, purchasers and the states.

SENATE UPDATE

Since the overwhelming passage of the Marketplace Fairness Act in the Senate four years ago in May 2013, the Senate sponsors have been working with all stakeholders to enact the bill into law. On April 30, 2017, the same day as the House, Senators Michael B. Enzi (R-WY) and Dick Durbin (D-IL) introduced S. 976, The Marketplace Fairness Act. The legislation is identical to the bill that was introduced in the Senate the previous Congress. Today, the Senate bill has 27 bipartisan cosponsors – 7 Republicans, 19 Democrats and 1 Independent. We continue to work with our Senate champions to increase co-sponsorships, but they understand the need for us to focus much of our attention on the House at this point.

ADMINISTRATION UPDATE

Since we last met, the Governing Board decided to pursue a two-prong legislative strategy this year, focused not only on the House and Senate legislative efforts, but also on the Trump Administration engagement.

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On July 19, 2017, Governing Board representatives met with key staff of the President's National Economic Council to discuss the importance of finding a federal legislative solution to the remote sales tax collection issue. We informed them that there has been significant state legislative and legal activity and it will continue to increase as remote sales and e-commerce transactions continue to grow and gain larger and larger portions of the overall markets unless something is done to solve the problem. We clarified the reason the states are undertaking these state legislative and litigation initiatives. Further, the Governing Board stressed that our organization is about simplification and uniformity and if this trend continues in the individual states, businesses are going to face a patchwork of state laws that they will have to maneuver state by state. The Governing Board firmly believes that a uniform destination-based federal solution to this issue is the best approach. No official position has been taken by the Trump Administration at this time, but we continue to engage with them.

On July 26, 2017, Treasury Secretary Steve Mnuchin testified before the Senate Appropriations Committee. Senators Joe Manchin (D-WV) and Dick Durbin (D-IL) asked Secretary Mnuchin about his potential support for fair taxation on Internet sales. Secretary Mnuchin stated that there is no official Administration position on this specific policy issue.

He did recognize that many states do have a use tax that goes along with the sales tax, so this is more of a function of collection. He respects the states' concerns that there is a lot of money that is not being collected that is due now, and he stated that this funding could potentially be a useful means for states to fund infrastructure.

The Governing Board continues to work with the Trump Administration, providing information on the Streamlined Sales and Use Tax Agreement, the Governing Board, state-by-state legislative and legal activity, and the Board's outreach to Capitol Hill.

We look forward to working with the executive branch to determine the best path forward in finding a federal legislative solution this year.

NEXT STEPS

The Governing Board is positioned as a vocal participant in congressional policy negotiations on how best to proceed on e-fairness legislation this year with the Congress and the Trump Administration. Congressional leadership needs to hear directly from you and your state leaders now. Educating them about the need for the federal legislation is critical. Writing or emailing a letter of support for the House bill and/or calling your representative expressing your support is key and extremely helpful.

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The Governing Board will continue to work with all interested congressional leaders, members and staff, and Administration officials to find a solution that is fair to all parties involved – sellers, purchasers and the states.

Randi indicated they will continue to provide more information as they know it and to please let Senator Cook, Craig or herself know if you have any questions.

Status of Individual State Remote Sales Tax Collection Legislation and Litigation- Pat Reynolds & Fred Nicely

Pat Reynolds and Fred Nicely of the Council on State Taxation provided a presentation showing the current Federal and State Legislation as well as the State Litigation. The presentation also covered “Real-Time” collection and Future COST Sales Tax Scorecard which will include whether or not a state is participating in Streamlined. The presentation is available for viewing on the SSTGB website at the following link:

<http://www.streamlinedsalestax.org/index.php?page=governing-board-presentation>

South Dakota State Supreme Court Decision – Revenue Secretary Andy Gerlach

Secretary Andy Gerlach provided an update regarding Senate Bill 106 which was heard by the South Dakota Supreme Court. On October 2nd, South Dakota appealed to the United States Supreme Court, filing a petition of certiorari. Mr. Gerlach encouraged everyone to read the petition which is on the South Dakota State website, and showcases the changes since Quill in 1992. South Dakota is working with organizations and the private sector for amicus briefs. He is hopeful the US Supreme Court will take the case. We should know sometime in January 2018 whether or not the Supreme Court will accept the case.

Reports of Committees

- Executive Committee
 - Sanctions Based on 2016 Compliance Findings

Georgia Sanctions Recommendations- The recommendation of the Executive Committee was to impose the same sanctions as last year on Georgia. A ¾ vote by the Governing Board states is required. Brian Patrick Kennedy motions to approve sanctions. A voice vote was taken and approved unanimously by those member states present. Georgia was not allowed to vote on the sanctions recommendation.

- CSP Contract Revisions

Craig Johnson reviewed the revisions to the current contract. Tim Jennrich motions to approve the changes, minus the revisions to section D.2.B.3, as well as the multi-level marketing issues. A voice vote was taken and approved unanimously by those member states present.

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- Finance Committee
 - Financial Reports- 4th quarter report and Annual Final Report FYE 6/30/17 FC17003 and FC17004

Diane Hardt provided the 4th Quarter Financial Report (FC17003) and reported it as showing strong financial condition. The Annual Final Report (FC17004) is unaudited - a draft was sent that looks similar to what you are looking at. Diane Hardt motioned to approve the financial statements. A voice vote was taken and approved unanimously by those member states present.

- FYE 6/30/18 Proposed Budget Amendment (FC17005) and FYE 6/30/19 Proposed Budget (FC17006)

Diane Hardt reviewed the FYE 6/30/18 Proposed Budget Amendment and FYE 6/30/19 Budget. Craig Johnson pointed out an increase in employee travel, a \$5,000 increase for Chairperson travel, and doubling the state travel reimbursements to delegates and designees from \$24,000 to \$48,000 per year. Senator Cook asked if there are any questions regarding the two documents. With no questions, Diane Hardt motioned to approve FC17005. A voice vote was taken and approved unanimously by those member states present. Diane Hardt motioned to approve FC17006. A voice vote was taken and approved unanimously by those member states present.

Proposed Amendments to SSUTA for Discussion and Possible Action

- Section 106 – Create Exclusion from Requirements of Agreement for Marijuana and Products Containing Marijuana – AM17002A01

AM17002A01 is a motion by Nevada and North Carolina to create Section 106 of the Agreement to remove marijuana products from being subject to the requirements of the Agreement. If adopted, the provisions of the Agreement would not apply to sales of marijuana or products containing marijuana. This section will be reviewed if federal law changes to allow interstate distribution of marijuana and products containing marijuana. Senator Cook asked the BAC if they have any comments. Fred Nicely states the BAC took a position of neutrality. Representative Kennedy motioned to approve the proposed amendment. A voice vote was taken and approved unanimously by those member states present and voting.

- Section 322 - Sales Tax Holiday Notice Requirements – AM17009

AM17009 is a motion by Ohio to amend Section 322 of the Agreement to require notice 60 days prior to the calendar month in which a sales tax holiday is to take place rather than 60 days prior to the calendar quarter in which the sales tax holiday is to take place. The BAC reviewed and motioned to not support the amendment. They suggested a compromise of 90 days prior to the calendar month. Gary Scherer respectfully asked for the original amendment to be considered. Senator Cook asked for any comments. None were received. Gary Scherer

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motioned to approve AM17009. A voice vote was taken and approved unanimously by those member states present and voting.

- Section 502 – Uniform Format and Instructions for Product Category Certification and CSP Change Request (Form TC-0005) – MC17003A02 and MC17004A02

Craig provided an overview and background related to the development of this form and how this will work. The documents brought forward are the result of a collaborative effort of the Certification and State and Local Advisory Council (SLAC). David Campbell asked about the CSP product category section and asked if you have a parent and a child category/subcategory, what are the other subcategories for? Alison Jares stated that most of the time, only a parent and child category will be needed, however there have been instances where additional subcategories are needed. Russ Brubaker stated it is his understanding that this is a trial form, and if issues arise, they will be fixed. Craig indicated that some of the CSPs were already using this form and it has worked but if changes are needed, they would certainly be considered. Craig also pointed out that if this form is not approved, there would be no uniform format required to make these requests and CSPs would be free to send them in however they want (email, spreadsheet, simple question format, etc.) The states and CSPs need to communicate as to what is and is not working with the form if it is approved so we can continue to improve it as necessary. Tim Bennett motioned to approve MC17003A02 and MC17004A02. A voice vote was taken and approved unanimously by those member states present and voting.

- Appendix C, Part II – Exclusion for “Diapers” from Definition of “Clothing” – AM17010

AM17010 is a motion by North Dakota on behalf of the National Diaper Bank Network to amend the Library of Definitions to allow a state to treat “diapers” differently than it treats “clothing”. Alison Weir from the National Diaper Bank Network gave a presentation about her organization and the need to make diapers more affordable for families. Tim Jenrich asked what age is being referred to for a “child”, and what the difference is between children’s and adult diapers. Alison Weir stated children’s diapers tend to go to size 4, which would fit an 18 month old child. The BAC stated they are in support of the amendment but that we should look into developing a definition or distinction between children and adult diapers. They want consistency regarding this issue throughout the states. They did raise one question in the statement “a garment worn by individuals”, and believe the word individuals should be changed to “humans”. Senator Rest stated she doesn’t like the piece that allows states to limit the exclusion to children or adult diapers. She is concerned about people that wear diapers all their lives and would prefer an age and condition neutral definition. Mike Walsh (NE) asked why this issue wasn’t noted in North Dakota’s compliance report since they did not appear to be following the “clothing” definition requirements. Myles Vosberg stated their exemption applied to supplies for ostomy care and bladder dysfunction and not diapers specifically. Senator Rest (MN) moved to table the discussion and work on the issue further. A voice vote was taken, which was not unanimous, so a roll-call vote was taken. With one yes vote and 17 no votes to table, the discussion moved forward. Representative Kennedy moved to approve AM17010 with the change of “individual” to “human.”. Senator Cook added there will be

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additional language developed and brought forward at a future meeting to distinguish between adult and children's diapers. A voice vote was taken, but was not unanimous, so a roll-call vote was taken. With 18 yes, and 1 no votes, the motion carried.

- Section 805 – Substantial Compliance – AM17003A01

AM17003A01 is a motion by Oklahoma and North Dakota to amend Sections 327, 805, 805.1, 303, 401, 601 and 602 of the Agreement to (1) require states to follow any specific lists of products or services relating to a term defined in the SSUTA as adopted by the Governing Board; (2) make the additional necessary changes to prevent conflicts within the Agreement related to these changes; and (3) provide that the contract with the CSPs may require a state that is not compliant with the SSUTA to pay higher CSP compensation.

The amendment was reviewed and discussed the prior day at the State and Local Advisory Council. During that discussion and as discussed at the Governing Board meeting, it was suggested that the proposed changes to sections 805.1, 303, 401, 601 and 602 be removed from this proposed amendment. In addition, a suggestion was made to reword the last sentence of Section 327.C. of the Agreement so that it does not say that "...the Governing Board shall find a member state is not in compliance..." It was felt that that decision should be made by the Governing Board when an actual vote is taken as opposed to the SSUTA telling the Governing Board that it "shall find the state is not in compliance..." A proposed change was also made to add "or service" after "product" in the last sentence of that section. Some wordsmithing was also suggested with respect to the first two sentences in the proposed Section 805.A. to combine those two sentences into one to remove some of the redundancy without changing the point that was being made.

Commissioner Clark Jolley (OK) and Senator Cook (ND) both sponsors of the initial proposed amendment agreed with the comments and suggested changes. Commissioner Jolley made a substitute motion to approve Sections 327 and 805 as amended and shown on the screen. The amendments to Sections 805.1, 303, 401, 601 and 602 were excluded from that substitute amendment and the changes mentioned above were included in that substitute amendment. Craig Johnson explained that if this amendment is adopted, a second vote would be needed (unless there is unanimous consent to forego the second vote) since it would change the requirements for at least one state. If approved, states will have until January 1, 2020 (or a full legislative session) to come into compliance with this provision as provided in Section 805 of the SSUTA. A voice vote was called, but was not unanimous. Therefore a roll call vote was made and the motion carried by a vote of 17 yes, 2 no (NE and NJ) and 3 absent (KS, VT, WV). GA was not allowed to vote on the amendment due to the sanctions that had been imposed. The amendment will be scheduled for a second vote at the December teleconference meeting.

Proposed Amendments to Rules for Discussion and Possible Action

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- Rule 603 – Small Seller Exception - Repeal (Obsolete) – RP17002

RP17002 is a motion by North Dakota on behalf of the Executive Director to repeal Rule 603 since it is obsolete. Craig Johnson explained the proposal and Representative Kennedy motioned to approve the RP17002. A voice vote was taken and approved unanimously by those member states present and voting

Proposed Amendments to Bylaws

- Article V – Section 2 – Election and Term of Office – BL17001

BL17002 is a motion by North Dakota to amend the bylaws to provide for two-year terms for Officers of the Governing Board. Senator Harper and Mike Walsh voiced concerns regarding re-elections and term limits. Representative Kennedy stated he didn't know of any similar organization had more than a one year term, and he is not sure he would be supportive of this. A voice vote was taken, but was not unanimous. A roll-call vote was taken, and with 6 yes votes, and 14 no votes, the motion fails.

Election of Officers and Directors for 2018- NC17001

The 2018 slate of candidates listed Officers: President, Dan Noble; 1st Vice President, Representative Brian Kennedy; 2nd Vice President, Tim Jennrich; Secretary/Treasurer, Diane Hardt and Directors: Eric Wayne, Representative Gary Scherer and Tom Atchley. Representative Kennedy moved to accept the slate of candidates. A voice vote was taken, and was unanimous.

Election of Nominating Committee

The 2018 slate of candidates listed Diane Hardt (WI), Richard Dobson (KY), Tim Jennrich (WA), Senator Cook (ND), Senator Bramble (UT), Laura Stanley (OH), Jenny Starr (MN) and Senator Commack (SD). Representative Kennedy moved to accept the slate of candidates. A voice vote was taken, and was unanimous.

The meeting then adjourned for the day and will reconvene on Thursday morning at 8:30 am

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Thursday, October 12, 2017, 8:30 am – Noon central

President Dwight Cook reconvened the meeting at 8:35 am central. The roll of the states was called, 21 states were participating and the quorum was established. Absent were the states of Kansas, Rhode Island and Tennessee.

Reports of Committees

- **Compliance Review and Interpretations Committee - Myles Vosberg**

- **Annual State Compliance Reviews- CI7003**

Myles Vosberg discussed the Annual State Compliance Reviews. Fred Nicely of the BAC thanked CRIC and Myles for their hard work and stated it would be nice to accelerate the compliance reviews to be able to have the vote at the annual meetings. Craig Johnson voiced his concerns with Pam's workload if all states wait until the deadline to submit. Senator Cook states moving the annual meeting to November or December could work with this. Myles added that reviews are taking far less time due to the way the system is set up. Craig and Pam will work with Myles and CRIS and the BAC to see if we can move the timeframe up and possibly push the annual meeting to later in October so that the state compliance votes could be taken at an in-person meeting.

- **State and Local Advisory Council - Alison Jares**

Alison Jares reported that SLAC had met in St. Paul as well as earlier this week. They worked on the creation and finalization of MC17003A02 and MC17004A02, which will be the new form CSPs use when requesting the certification of a product category. SLAC also formed another work group which will review Appendix L and M and address the nasal strip issue. This workgroup is still in the discovery phase. A survey regarding the "Not Defined" products in Appendices L and M will be circulated to the states within the upcoming week and Alison asked that states please get their responses back on the survey as quickly as possible. Alison thanked everyone who has participated in the work groups. Fred Nicely of the BAC stated they appreciate all of the work SLAC has done. With regards to the nasal strip issue, the BAC strongly feels nasal strips should not be considered a prosthetic device. Craig Johnson thanked Alison and Christie Comanita for all of their work. He stated they are both term limited and will not be able to chair SLAC next year.

- **Certification Committee - Tim Bennett**

Tim Bennett stated the Certification Committee met in St. Paul to establish the uniform format for requesting certification of product categories MC17003A02 and MC17004A02 along with SLAC.

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Streamlined had another party interested in becoming a CSP, however last week they withdrew their application.

The Certification Committee met on September 29th, and voted to recertify all CSPs and their recommendations were approved by the Executive Committee.

Tim indicated that during the St. Paul meeting, there was discussion regarding possible changes to the SER. This is an ongoing process as any change to the schema requires states and CSPs to make changes and these changes also go through TIGERS for make sure we all follow a uniform format. David Campbell mentioned that Arizona is able to accept an SER with local jurisdictions.

Regarding certifying 3rd party rate and boundary databases, there is a provision in the agreement that allows states to do this voluntarily. Requiring states to do this would require a change to the Agreement. Craig Johnson asked the Governing Board for some direction on this issue. Deborah Bierbaum stated for a company like AT&T, the state address databases are not usable. The company needs to have a database that is more precise. The benefit to them for having a certified database, is that it stops class action lawsuits from happening to them for not following reasonable business practices. All communications companies collect sales tax, 911 fees, and several other taxes for state and local government and they need to know the payments are accurate. For instance, AT&T had a class action lawsuit in Oklahoma, because a \$0.50 tax was charged in a certain county. Senator Cook asked Deborah if this issue might be better suited for a discussion at the NCSL State and Local Taxation Taskforce and asked her to reach out to them to get it on the agenda since it seems to be more than just a Streamlined issue. Eric Wayne asked what the time commitment would be if a state were to be required to do this. Tim Bennett stated that is a concern he is hearing from states as to why they haven't done this voluntarily as there is a significant time commitment. To date, only four states have voluntarily certified 3rd party databases and even then some of them limit what that certification entitles the database provider to as it relates to liability relief, etc. Richard Dobson said he understands from a business standpoint that this is a good thing, however he believes it is beyond the scope of Streamlined and the SSUTA. Deborah Bierbaum added another question also exists as it relates to allowing a business to purchase one component of a CSPs system as opposed to the entire system. For example, the business may want to purchase one CSPs rate and jurisdiction database and a different CSPs (or other third party's) taxability matrix. Craig Johnson stated we could certainly look into this, but he is not sure what the states would do as it relates to providing liability relief if only one component is purchased and also whether or not this should only be available for those businesses registered through Streamlined. One of the benefits to the Streamlined states is knowing that if a seller registers through central registration, that seller has to register and collect in all of the member states. If this were to

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move forward, one thing that needs to be considered is whether it would only be available to those sellers registered through Streamlined. Those types of issues will need to be worked out.

- **Audit Committee - Darrell Engen**

Darrell Engen started by stating it has been a very busy year for the audit core team. They have prepared and provided all of the CSP contract compliance reports to Executive Director. The Core Team made site visits to all of the CSPs and had several phone conferences with them throughout the year. Darrell thanked the states that allow their employees to take time away from their regular jobs to do these audits – Minnesota, Nebraska and Washington. The team has also been looking ahead to plan how they are going to handle the volume of records if federal legislation passes. Darrell encouraged states to attend the audit meetings in person and asked states for help to figure out a new plan as we move forward. Darrell indicated that the Audit Committee would also like to have all of the states participate in the expanded certified product categories/test deck process. More will be discussed on this at the upcoming Audit Committee meetings in early 2018 at the next in-person meetings. They have also spoken with CSPs and gained a better understanding of how they work and emphasizes the need to keep communications open with the CSPs. The Audit Committee is also going to be looking at ways to improve the CSP audit process.

Senator Cook added once we get Federal Legislation and go from 23 states to 46, we will have more state employees to help.

Craig Johnson stated he appreciates that the group is thinking ahead with remote seller collections and how this will be handled when the volume increases dramatically. He feels it is important for the states to start thinking about making the “seller” the “seller” and the CSP as having the liability, as opposed to in effect treating the CSP as the seller. Right now, if you view the CSP as the seller and you audit the CSP, you are auditing all businesses the CSP is representing as Model 1 volunteer sellers in the state.

Diane Hardt stated that listening to Daryl and Craig speak, she feels that maybe the audit group needs more statistical sampling specialists. Daryl replied that it may be a good idea to have statistical sampling folks present. Craig Johnson did point out however, that because of the way the mapping of individual products is currently being handled, it is unlikely that sampling could be done on a group of independent sellers, but we will certainly look into this and options that may be available.

David Campbell thanked the Audit Core Team for their work and also indicated that we do really need to look at the Appendix F requirements.

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- **Business Advisory Council – Fred Nicely**

The BAC's Fred Nicely stated that there was good attendance at their meeting with lots of folks present and thanked the Governing Board for their work over the last year.

Every two years the BAC changes officers. Currently Charles Collins is the president. He has been replaced by Carolynn Kranz. Debra Bierbaum was named Vice President, Russ Brubaker, Treasurer and Melissa Smith, Secretary.

Regarding the Substantial Compliance amendment, the BAC agrees with the changes to the agreement.

In regards to the Medical Products, the BAC would like to see progress with the nasal strip issue.

The BAC notes the States concerns with the rate and boundary database issues, but they do not want the Governing Board to give up on the idea.

Regarding volunteer sellers and the multilevel marketing company discussion that took place, the BAC does have questions as to whether or not these are volunteers. Rule 602.1 isn't clear enough and a state can interpret this broadly. Therefore work should be done on this but, the BAC doesn't think that should be a mechanism to not allow for CSP compensation at this time.

- **Certified Service Providers – Jerry Johnson**

Jerry Johnson provided the CSP report and thanked the Governing Board for their work. He stated that the CSPs were appreciative that the Governing Board had adopted the uniform power of attorney form.

The CSPs strongly encourage a revival of an amnesty program. David Campbell stated the lack of an amnesty program causes people to volunteer, then unvolunteer. Amnesty programs allow for retention as they don't want to unregister and lose amnesty. Craig Johnson stated that the MTC voluntary disclosure agreement has States doing no look back on businesses. Craig asks the states that did volunteer with MTC if they would be willing to offer same terms to Streamlined? He welcomes thoughts publicly or privately on this. Senator Cook asks if we should survey the states. Craig added that when an "amnesty" has been discussed in the past, he has heard from several of the states that this would require a legislative change. He asked how states were able to offer this through MTC without a law change. Richard Dobson added that using the word "amnesty" may be a problem. The catch is that not every state can do it, but a good portion could. Senator Cook asks how we can take this further. He thinks a work group should be put together to see how it could be implemented. Richard Dobson volunteered to put a group together. Eric Wayne and Diane Hardt volunteered to be part of the group. Senator Cook will look forward to an update at the Spring 2018 meeting on this.

- Executive Director Report- Craig Johnson

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Craig covered a number of topics and indicated that some of the items on his update have already been discussed such as another possible amnesty.

Craig indicated that as had been discussed briefly yesterday, the CSP contract negotiating team is continuing to work with the CSPs on finalizing the CSP contract. There is one outstanding issue that needs to be resolved and that relates to the multilevel marketing companies and which ones are or are not “volunteer sellers” under the CSP contract. Craig asked that the members of the negotiating team and the CSPs that were present please meet immediately following this meeting to continue discussions on that topic.

Craig provided an update on the number of SST registered sellers and indicated that as of October 1, 2017 there are 3,687 sellers that have voluntarily registered and agreed to collect and remit the appropriate sales and use taxes in all of the member states regardless of any physical presence and that those sellers have remitted in excess of \$3 billion dollars based on the amounts states have reported to him.

Craig indicated that he and Jody were continuing to work on the state tax administrator/legislator guide and that he was hopeful that they would have a draft hopefully ready for Governing Board review and approval by the Spring 2018 meeting.

Craig indicated that he does believe we need to continue to encourage other states to join Streamlined and would really appreciate the help of the Business Advisory Council in this area as well. He did point out that Missouri will likely have a bill brought forward in its upcoming legislative session and that Washington DC was present at this meeting and starting to re-engage on the issue as well. He also indicated that he had been contacted by a Connecticut legislator asking why CT has not joined but has not heard anything back on that. Craig indicated that we will continue to look for additional states to join and that this likely will be a topic of discussion at the January 2018 planning meeting.

Craig reminded all of the states that the Streamlined Sales and Use Tax Certificate of Exemption had been revised and approved back in May and that the new SST Exemption Certificate should be used beginning January 1, 2018.

Craig encouraged anyone with ideas or topics that they felt Streamlined should try to address to contact him. He will likely ask them to provide a brief written narrative explaining the issue and reason it needs to be addressed.

Craig thanked the Governing Board, the CSPs and the business community for their continued support and participation in Streamlined.

Streamlined Sales Tax Governing Board Meeting Minutes

October 2017

Cox Convention Center, Oklahoma City, OK

Old Business

None

New Business

None

Adjournment

With no further business, Senator Cook adjourned the meeting at approximately 10:00 am central.