



Streamlined Sales Tax Governing Board Meeting Minutes  
Tuesday - Wednesday, October 5 - 6, 2021, 10:00 am central  
Bloomington, MN

Call to Order and Roll Call

President Rest called the meeting to order. The roll of the states was called. With 20 full member states present, and one associate member state present, the quorum was established. Absent were Kansas, West Virginia and Wyoming.

Review and approve minutes from May 20, 2021 (MM21003)

President Rest stated the minutes from the May 20, 2021 meeting had been posted to the website and a link added to the agenda. She asked for a motion to approve the minutes. Clark Jolley provided the motion. No comments were received. A voice vote was taken and was unanimous. Motion carried.

Federal Legislative Update – Randi Reid

Randi Reid provided the federal legislative update. The PowerPoint is located [here](#).

Committee Reports

Executive Committee – Senator Ann Rest (MN), President

- CSP Contract – Status of Contracts for 1/1/2022 – 12/31/2023

President Rest stated that the Executive Committee met previously and has now approved all of the current CSPs and their contracts through December 31, 2023. We had one or more CSPs that we previously entered into single year contracts with that were set to expire at the end of 2021 as certain issues were being worked out. Those issues have all been resolved and contracts running through December 31, 2023 have now been signed. She appreciates the work of all the CSPs and the services they provide to remote sellers to help them accurately calculate, collect and remit the sales tax in all of our member states. President Rest recognized the importance of the continued partnership with the CSPs.

- Trademark Application

President Rest explained that a small workgroup was put together by the Executive Committee that is tasked with registering our intellectual property. Some ideas were considered and Craig looked into some of the free resources that were available to help with trademark applications, etc. After checking into several of these Craig kept hitting dead ends – too much revenue, in existence too long, not accepting applications, etc. Craig found a “bootcamp” put on by the US Patent and Trademark Office and participated in the weekly presentations for 8 weeks. After completing the bootcamp, Craig started working on the application required by the USPTO. He reviewed a previous application that was submitted and rejected and reviewed the reasons for the rejection and how to correct those issues, so a new application can be submitted. Craig has put together the new application, specimens (examples), etc. and reviewed some questions



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with Larry Molnar from Indiana last week. Larry has some past experience in trademark applications, so his help was greatly appreciated.

Craig and Larry indicated that providing the proper class descriptions and good specimens are extremely important and sometimes are not that simple to do. Craig has put together the information for the new application but wanted to check with this group to see if there are any other folks that have trademark application experience that might be willing to take a look at what has been put together and provide input. May still consider outside counsel which the Executive Committee previously approved. No questions or comments were received.

The timeline for review and approval can take more than a year depending on USPTO backlog, type of office action issued, etc. One of the ways we can help reduce this timeline is making sure we respond quickly to any office action received.

- Federal Affairs Contract

President Rest stated that when we entered into the latest federal affairs contract with Randi's firm (KDCR), it was for a 6-month period that then went month-to-month after the 6-month period was up, with the understanding that we would look at what was happening related to our issue (remote sales tax collection) and consider whether an adjustment to the contract terms, expectations, costs, etc. are needed. She explained that the Executive Committee approved continuing the current contract as is. She indicated we can review and reconsider it again at the December 2021 meeting. No action is needed by the Governing Board at this meeting. President Rest stated she appreciates the services we receive from Randi's firm and finds value in the information received at the bi-monthly check ins and if anyone has any specific questions or concerns, they can feel free to reach out to Craig.

- New Finance Committee Chair

President Rest reminded everyone that the Executive Committee, upon the recommendation of the Nominating Committee approved Richard Dobson (KY) as the new Finance Committee Chair. Richard replaces Dan Noble who resigned from the Wyoming Department of Revenue. Richard has taken over those duties and as we will see shortly is already knee deep into their activities and responsibilities.

Finance Committee - Richard Dobson

- Financial Report – 4th Quarter FYE 6/30/2021 (FC21004A01)
- FYE 6/30/2022 Proposed Budget Amendment (FC20006A01)



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- FYE 6/30/2023 Proposed Budget (FC21005A01)
- Accounting Policies and Procedures (FC21006)
- Rule 806-1-2 - Finance Rules and Procedures (RP21005A01)

Richard Dobson provided the Finance Committee report stating the Governing Board is in good financial position with greater than average liquidity for an organization of its size, as stated by the independent auditors.

He provided a review of FC21004A01 noting how the elimination of travel and meetings due to COVID has reduced our expenses and resulted in a higher than anticipated ending balance. Tim Jennrich motioned to receive FC21004A01. No additional comments were received. A voice vote was taken and was unanimous. Motion carried.

Richard Dobson reviewed document FC20006A01 which is the proposed FYE 6/30/2022 budget adjustment. Once the prior fiscal year is closed we consider any adjustments that may be needed to the current year's budget based on the prior year's actual numbers and what may be projected for the upcoming year. Based on what we know now and the prior years' experience, the Finance Committee met and approved recommending various changes to this year's budget including a reduction in what is anticipated for meeting revenues due to the ongoing pandemic, and a reduction in anticipated telecommunications expenses, federal affairs consulting fees and semi-annual meeting expenses. Various other adjustments were also reviewed in document FC20006A01. Clark Jolley motioned to receive FC20006A01. No additional comments were received. A voice vote was taken and was unanimous. Motion carried.

Richard Dobson described FC21005, which is the FYE6/30/23 proposed budget. Richard indicated that this is the proposed budget as required by our bylaws and reminded folks that this budget is trying to anticipate what is going to happen more than a year from now. Commissioner Jolley motioned to receive FC21005. No comments were received. A voice vote was taken and was unanimous. Motion carried.

President Rest reminded everyone that at a previous meeting we discussed the accounting policies and procedures related to moving the accounting in-house and making sure there were adequate controls and separation of duties to protect the assets of the Governing Board. Those policies and procedures are as shown in FC21006. We met with our independent auditors to discuss these procedures and to have them identify any potential problem areas or suggested changes. They only had a couple suggested changes and were satisfied with the procedures being proposed. Richard added that from his experience previously being the Finance Committee chair, the position has grown and the transparencies are very apparent.



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Commissioner Jolley motioned to approve FC21006. No comments were received. A voice vote was taken and was unanimous. Motion carried.

Senator Rest stated RP21005A01 is an amendment that is being proposed to make the Finance Administration Policies contained in the SSTGB Rules and Procedures consistent with the policies and procedures contained in FC21006. Craig walked through the changes and the review that has been completed related to this proposed amendment to the rule.

Commissioner Jolley motioned to approve RP21005A01. No comments were received. A voice vote was taken and was unanimous. Motion carried.

Compliance Review and Interpretations Committee – David Steines (WI), Chair

- 2021 Annual State Compliance Reviews Report (CI21004)

Dave Steines stated the Compliance Review and Interpretations Committee (CRIC) has completed its annual recertification review of member states in accordance with Rule 803 of the Streamlined Sales Tax Governing Board. CRIC, with assistance from Governing Board staff reviewed member states' compliance with the provisions of the Streamlined Sales and Use Tax Agreement following each state's submission of its statement of compliance (or statement of noncompliance) and updated online certificate of compliance and taxability matrix. CRIC took a public vote on whether each state was or was not out-of-compliance with the Agreement pursuant to Section 805. A single vote was taken by CRIC for the 18 states that did not receive public comments and for which no other issues were raised during the review. Those states were AR, IN, IA, KY, MI, MN, NE, NJ, NC, ND, OH, OK, RI, SD, UT, WA, WI and WY. Separate votes were taken on GA, KS, NV, TN, VT and WV. Kansas, Vermont and West Virginia were able to correct their issues prior to the vote and were found by CRIC to be not out of compliance with the SSUTA.

In view of that, Dave Steines motioned to find the 21 states (AR, IN, IA, KY, KS, MI, MN, NE, NJ, NC, ND, OH, OK, RI, SD, UT, VT, WA, WI, WV and WY) not out of compliance. Fred Nicely commented on West Virginia's compliance on behalf of the BAC stating they believe they may not be in compliance with the requirements of the Agreement and also believe Kansas has an issue with products transferred electronically. The BAC may submit a Rule 904 petition to ask CRIC to consider whether West Virginia and possibly Kansas are out of compliance once the BAC completes some additional reviews of those states' laws. There were no additional comments on the motion. A voice vote was taken and was unanimous. Motion carried.

Dave Steines then moved on to TN and explained that CRIC reviewed TN's compliance as an Associate Member state. Sherry Hathaway explained the items Tennessee is out of compliance with, including some of the sales tax holiday issues. Dave Steines stated that since "gun safes" and "gun safety devices" are not defined items as required by the SSUTA Section 322.A.1, that



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is not in compliance with the SSUTA. However, Dave indicated that a vote was not taken on the Sales Tax Holiday issues specifically because they don't affect Tennessee's Associate membership status. CRIC recommended that Tennessee be found not out of compliance with the requirements of the Agreement as an Associate Member State. Dave Steines motioned the same. No additional comments were received. A voice vote was taken and was unanimous. Motion carried.

Dave stated Georgia remains out of compliance with the Agreement based on the same four issues as in the past. Georgia had no comments. Fred Nicely stated they do hope Georgia can address some of these issues. There have been longstanding issues and the sanctions have been the same. He wonders if there anything else that can be done to give the GA legislature an incentive to get into compliance. No additional comments were received. Dave Steines motioned to find Georgia not in compliance with the Agreement as noted in the CRIC report. No additional comments were received. A voice vote was taken and was unanimous. Motion carried.

Dave stated CRIC recommends that Nevada be found not in compliance with Section 322 of the Agreement (sales tax holidays) based on an entity-based sales tax holiday that was discovered late in the compliance review. Senator Dina Neal provided some background and commented on the issue as well as the steps being taken to come back into compliance regarding this issue as she very much values being in compliance with the SSUTA requirements. Fred Nicely on behalf of the BAC stated this issue was brought up very late in the process and he credits Guy and Senator Neal for taking action on this. Craig Johnson reminded states to send bills to him and Christie if they are able to so that they can be reviewed for any compliance issues. They may be able to suggest alternatives that may accomplish the legislative intent without the action creating a compliance issue. Dave motioned to find Nevada out of compliance with the Agreement. No additional comments were received. A voice vote was taken and was unanimous. Motion carried.

- Interpretation Opinion – ECG Monitors (IO21002A01)

Dave Steines stated CRIC had received a request to determine if an implanted ECG monitor was a prosthetic device, as states were treating it differently for tax purposes. CRIC met 9/22/20 regarding this issue and referred it to SLAC where a workgroup was formed, and various amendments were drafted relating to the issue. The Governing Board approved the amendments in May of 2021. The CIRC interpretation (IO21002A01) being recommended is based on the Agreement as amended through May 20, 2021. Dave Steines motioned to approve IO21002A01. Fred Nicely commented on behalf of the BAC that they appreciate this going out as an interpretive decision to help address the issue of how states may treat items differently when they do not clearly fall within a SSUTA defined term. He indicated the industry



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representatives recognize this may not result in absolute uniformity and stressed the importance of the disclosed practices to help provide clarity to the business community regarding the states' positions on these types of items. No other comments were received. A voice vote was taken and was unanimous. Motion carried.

- Interpretation Opinion – Providing and Hosting Online Banking Platform (IO21001A01)

Dave stated the issue considered here is whether providing and hosting an online banking platform as described in the request falls within the definition of “telecommunications services” under Appendix C, Part II of the Streamlined Sales and Use Tax Agreement. It was noted that the interpretation request also included a proposed interpretation that the services be determined to not be subject to Wisconsin sales and use tax. This Interpretive Opinion does not address the taxability of the services, but only addresses whether the items described fell within the definition of telecommunication services. Individual state laws ultimately determine the taxability. As provided in IO21001A01 CRIC is recommending that the proposed interpretation be accepted in part as it did agree the transactions don't fall within the definition of “telecommunications services”, however they did not address the taxability of the transaction as that is determined by each state's laws. Dave motioned to recommended approval of IO21001A01. No additional discussion . A voice vote was taken and was unanimous. Motion carried.

State and Local Advisory Council – Alison Jares (SD) and Dave Matelski (MI)

- Report of August Teleconference Meeting
- Current Workgroups
  - Prepared Food – Amendment to Consider (SL21014A01/AM21006)
  - Exemption Certificates – Resale and Other Exemptions
  - Digital Goods – Using Rate and Jurisdiction Database (SL21020)
  - Personal Protective Equipment (SL21021)
- Future Workgroups Being Considered
  - Defining Marijuana and Marijuana Products
  - Listing Telecom vs Non-Telecom Services

Alison Jares provided the SLAC update. SLAC met August 2<sup>nd</sup> and 3<sup>rd</sup>, as well as all day yesterday. Yesterday they had several states, the GFOA and US Conference of Mayors present, but they did not have a quorum. They reviewed and discussed the various amendments that are being brought forth for action by the Governing Board at this meeting as well as various other ongoing issues.



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Dave Matelski reviewed AM21006 related to the definition of prepared food. Dave explained the issues they have had in Michigan related to prepared food and compliance with the SSUTA. The state taxes prepared food, but has a constitutional prohibition related to taxing food and food ingredients. Dave explained that they had recent litigation in which a movie theater asked for a refund, which was denied by the department. Michigan was interpreting the definition of prepared food consistent with the SSUTA, including the interpretation that had been issued and related to a retailer's who provide utensils or make utensils available to the purchaser. Under the interpretation, if a retailer's sales of prepared food are more than 75% of the seller's total sales of all food and food ingredients, all of its sales of food and food ingredients are subject to tax if the retailer makes utensils available to the purchaser. The amendment creates a toggle so that a state may choose to exclude food and food ingredients that would otherwise be exempt even if the seller exceeds the 75% test and makes utensils available. They are hoping this amendment will ultimately result in legislation to correct the issue before it becomes a compliance issue. Richard asked for clarification on the amendment making sure it doesn't require any state to update their laws. Craig stated that no state needs to change their laws unless they want to take advantage of the toggle. In other words nothing changes related to prepared food in any of the member states solely as a result of this amendment being adopted. Dave Matelski motioned to approve AM21006. Fred indicated the BAC discussed the amendment and understands Michigan's issue. They recognize toggles can create additional complexity and is neutral on the amendment. Craig indicated that we will add information to the states' taxability matrices so they can clearly indicate when (and if) they adopt the toggle. No additional comments were received. A voice vote was taken and was unanimous. Motion carried.

Alison thanked everyone that participated in the workgroups. She provided an update regarding the workgroups that are still in process and will be starting in the future.

Jerry Johnson thanked the exemption certificate workgroup. He felt there was a good robust discussion yesterday and appreciates the states for getting this information out there. He stated he has some significant concerns related to the digital goods workgroup and is concerned about potential class action lawsuits. He also stressed that they want to try to source the transactions to the proper address and recognizes that we need to have continued discussions related to due diligence and what sellers are required to provide. Fred Nicely stated the business community is also concerned about going to the higher rate because of class action lawsuits, and the similar. Russ Brubaker raised potential privacy concerns related to sellers gathering this information from purchasers in digital type transactions.





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Craig indicated that the workgroup will be continuing to have discussions and anticipates some of these issues possibly being ready for Governing Board consideration by the December meeting.

Certification Committee- Tim Bennett (KY)

- Report of August Meeting
- Schema Changes
- Issues Being Addressed by Certification Committee
- Importance of Test Decks

Tim Bennett provided the Certification Committee update. Tim explained that after various discussions with the states, the CSPs and others, the Certification Committee is not recommending a change from SOAP to REST API at this time or the splitting of the schemas between the registration schema and the SER schema. The primary concern is the costs that would be incurred by all affected parties relative to the potential benefits received. He also pointed out that overall the system is functioning just fine.

Tim indicated that Certification is suggesting some changes to the user interface in the registration system. It does not affect the schema and states can pull an extract to get this additional information.

Craig and Jody explained the schema change document showing the changes that were discussed and considered and which items were able to be addressed in the user interface changes without schema changes.

Tim discussed the importance of test decks to assess the confidence states should have in the CSP's systems. He stated that for the 4th quarter all states must submit a new test deck so they could do testing with the CSPs. States also need to be working with and training their front-end employees regarding Streamlined issues.

Audit Committee- Megan Martin (ND)

- Report of August Meeting
- State Tax Compliance Audits
- Issues Being Addressed by Audit Committee
- Improving Efficiency of CSP Audit Process

Megan Martin provided the update for the Audit Committee.





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She stated the Appendix F data is too large and we need a better way to navigate it. The Audit Committee, Core Team, CSPs and Craig are working through some options to address this issue. Craig stressed that this is a good problem to have because it shows the significant growth in the CSP program.

She also discussed an issue her state encountered during the MTC audits. A business signed up with a CSP shortly after the state had signed off to participate in the audit through the MTC. There was a delay in the MTC audit and the periods covered by the audit ended up including a couple reporting periods where the seller was using one of the CSPs. After discussion with the MTC, they stopped the audit as of the date the seller transferred to the CSP.

Megan indicated that if you are having any issues with audits, please bring them forward to the Audit core team, or to Craig.

Craig walked through document RP21006. Megan and Craig then asked for comments and questions regarding the draft of the proposal related to Appendix F files. Minnesota liked the idea of looking at new sellers for mapping issues to identify potential problems as soon as possible to help prevent sellers from compounding potential errors over time. Blaine Kreikemeier suggested adding registration date information to the summary data. Chuck Maniace stated it may be difficult to add the date into the summary data as it isn't transactional data. Sovos is in favor of anything that makes this process simplified and gets the states the data they need. He likes this idea of near real time feedback. He would like to know if a potential issue exists sooner rather than later. Jerry indicated he liked the product mapping idea and wants to continue to find ways to improve the mapping process. Chad Paulson indicated he also wanted to make sure states were aware of the testing site they have available as required by the CPS contract as well as stress that when states run the test decks they make sure to use current dates. Craig indicated that ideas and discussions related to this will continue to determine the best solution and that he anticipates having something ready for Governing Board approval at either the December or May meetings.

Business Advisory Council Update and Issues to Discuss

Fred Nicely spoke on behalf of the BAC. They had a robust meeting and met their quorum. He announced the officers for 2022- - Carolyn Kranz, President; Russ Brubaker, Vice President; Brandi Drake, Treasurer and Jessie Eisenmenger, Secretary. Regarding compliance reviews, they are pleased with the efforts of the states to maintain compliance. They do have some concerns with how states are taxing digital products and possibly not following section 332. The BAC will be looking into possibly filing 904 compliance petitions for West Virginia and Kansas related to the taxation of digital goods. The BAC is also looking for additional members - both large and small businesses and appreciates the work of the Governing Board.



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Certified Service Providers Update and Issues to Discuss

Chad Paulson spoke on behalf of the National Association of Certified Service Providers. They have discussed the Appendix F data and are looking forward to some resolution on how to deal with the very large amounts of data. They are also interested in the continued work related to the sourcing of digital goods as this affects various sellers that are using CSPs. Finally, they continue to be interested in assisting with bringing non-SST states on board.

Executive Director Updates and Reminders – Craig Johnson

Craig provided his update.

With respect to the number of registrations, Craig indicated we are at about 15,500 active registrations. We were at about 3,900 when Wayfair was decided. We are also collecting over \$1 billion from SST registered sellers. Craig noted that for states that can identify or provide a reasonable estimate of which sellers are “volunteers” and which are not, he only included the volunteer sellers amounts. He also noted that some states have not provided the collections information and he would appreciate receiving this information from all of the states.

Craig discussed the growth in the CSP program since the Wayfair decision and the hope that this trend continues.

Craig reiterated the need for and importance of test decks to make sure the CSPs systems are operating as they are supposed to. The more complete a state’s test deck is, the more likely the sellers using the CSP’s system (SST and non-SST compensated sellers alike) are properly calculating and collecting the appropriate taxes on their transactions. The test decks can also help improve the state’s comfort level with the accuracy of the CSPs system and help the states realize that certain enforcement related resources may be better focused in areas other than on sellers using CSPs. He also indicated that it is not only important to run the test decks, but to carefully analyze the results. Testing the systems and identifying issues as early as possible can be helpful in making sure the states receive the proper sales tax in as efficient a manner as possible and help prevent businesses from unknowingly incur a potential tax liability because they were not properly taxing a product.

Craig discussed questions that he and his staff have been getting from sellers after the seller was incorrectly referred to Streamlined staff. Jody put together a document and distributed it to the states that identifies which types of questions should be referred to Streamlined, as opposed to the states answering the questions themselves. Sellers get frustrated when the states refer them to Streamlined for an issue that Streamlined cannot answer but instead needs to be answered directly by the states. Craig encouraged the states to make sure this information gets distributed and discussed with the personnel that are answering these types of questions for the states. Reach out to Craig with any questions on this.



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Craig reminded the states that if they have legislation that is proposed, he and Christie will review that legislation strictly from an SST compliance perspective. They will also keep the proposals confidential if that is the desire of the state. Craig also suggested reaching out to the BAC (Fred and Pat in particular) if the state would like to receive business input on any of the draft legislation.

Craig asked each of the states to please make sure they have representatives that are participating on the various SST Committees as well as in the Governing Board meetings. Craig briefly described the types of issues that each of the Committees handle and the importance of having each state represented. He stressed that these Committees really get into the weeds on many of the issues and that if states are not participating in the meetings, changes and interpretations may catch them off guard. He also wants to make sure every member state has a voice in the decisions being made.

Craig talked briefly about the surveys of the sellers registered through Streamlined. Overall sellers are very happy with the program as well as the CSPs. A few issues were identified with some accounts and states and SST is following up on those issues. A common response or suggestion that was received was that SST needs to get every state to participate in SST. Other responses related to the central registration system and the need to have a central filing portal.

Craig stressed the need for all of the member states to work together to inform sellers in their respective state about the possibility of them being required to collect and remit tax for the other states in which they have their products delivered. Unless we all work together, it will be difficult for states to individually identify who should be registered and collecting their sales tax.

Craig also stressed the need for succession planning and the states doing as much as they can to make sure the people in their state that have been participating in Streamlined transfer that knowledge to their successor (or possible successors) before they leave as well as stressing the importance of the state's participation in Streamlined, the benefits received, the responsibilities, etc.

Finally Craig recognized and expressed his appreciation for the various Committee Chairs, Executive Committee members, the CSPs and the BAC for their commitment, support and interest in making sales tax administration simpler and more uniform throughout the member states. He also thanked Commission Jolley for his service and participation and wished him well in his future endeavors.

Election of Officers and Directors for 2022



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President Rest stated the Nominating Committee met as required by the bylaws and developed a single slate of candidates for Officers for 2022 and open Director positions. She walked through NC21001 and stated all the candidates have indicated they would be willing to serve.

Commissioner Jolley then stated that he has submitted his resignation effective November 1<sup>st</sup> as he is pursuing other interests. He indicated he has had discussions with the leaders at Streamlined and is withdrawing his name. In addition to withdrawing his name, he would also like to nominate a replacement so that we can continue with the rotation of a tax administrator one year followed by an elected official the next year. Commissioner Jolley indicate that he would like to accept the slate as proposed, except for moving Tim Jennrich into the President position in place of himself. He indicated he recognizes that Tim served as President in 2020, which really limited what he could accomplish due to the COVID pandemic and thinks it would be appropriate to give him the opportunity to serve during what hopefully will be a more normal year. Representative Tim Reed stated he is fully in support of the nomination to alternate between legislation and tax administration and supports Tim Jennrich being put in the President's slot for 2022. Tim Jennrich indicated that he was humbled by being asked to serve in the capacity as President once again and is willing to serve if that is the will of the group. No further comments were received. A voice vote was taken and was unanimous. Motion carried.

Election of Nominating Committee for 2022

President Rest stated the Nominating Committee met as required by the bylaws and developed a single slate of candidates of people to serve on the Nominating Committee for 2022. She walked through NC21002 and stated all the candidates have indicated they would be willing to serve. Representative Kennedy made a motion to approve the slate as submitted. No further comments were received. A voice vote was taken and was unanimous. Motion carried.

Informational Presentation – Brave New World of Digital Tax and Transactional Documentation – Charles Maniace (Sovos) (10 am central Wednesday, October 6, 2021)

Charles Maniace, Christiaan van der Valk and Anna Norden from Sovos made an informational presentation to the group related to some of the global trends surrounding transactional taxes and how some of the near real time transactional data is being provided, e-invoicing type standards and similar topics. The presentation was very timely considering the Governing Board is looking for ways to address the large amounts of transactional data currently required and looking into how others handle it.

Craig and Senator Rest thanked the Sovos team for making this presentation.

Old Business

None



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New Business

None

Adjournment

President Ann Rest motioned to adjourn at 11:20 AM Central.