

**ANNUAL IFTA BUSINESS MEETING**  
**August 21 – 13, 2020**  
**Virtual Event**

**Call to Order**

Mr. Scott Bryer, Administrator for the New Hampshire Department of Safety and IFTA, Inc. Board of Trustees (Board) President, called the meeting to order. Mr. Bryer explained that this year's Annual IFTA Business Meeting was being held virtually due to the nationwide pandemic of COVID-19 to observe the health and safety of membership, partners, and industry supporters alike. Prior to the event becoming virtual, sponsorship was received. ProMiles, the event sponsor, was recognized. Additional meeting sponsors included Celtic Systems and Fast Enterprises as associate sponsors.

**Roll Call of Voting Delegates**

Mr. Carmen Martorana, IFTA, Inc. Executive Director, conducted the official roll call of membership. Fifty-eight member jurisdictions were in attendance or represented by proxy. Mr. Martorana announced that there was a quorum to conduct the business of the association.

Following the roll call of the voting delegates, introductions of all guests were made. There were fifty-six jurisdictional guests and nineteen industry guests representing thirteen different companies in attendance.

**Approval of the 2019 Meeting Minutes**

Mr. Bryer presented the minutes from the 2019 Annual IFTA Business Meeting for approval. No corrections were offered.

**Motion:** Ms. Antoinette Tannous, IFTA Commissioner for the jurisdiction of Quebec, moved to approve the 2019 meeting minutes. Mr. Omer Guzman, IFTA Commissioner for the jurisdiction of Michigan, seconded the motion. A roll call vote was taken. The motion was approved by a vote of 57 in favor with one abstention from Newfoundland and Labrador.

**Election Committee Report and Election of 2021 Board Members**

Mr. Rodney Richard, Assistance IFTA Commissioner for the Arkansas Motor Fuel Tax Unit, Board member, and Chair of the Election Committee, presented this report. Mr. Richard reviewed the procedures and requirements of the nominee selections. Other members of the Election Committee included Mr. Dany Couillard (NB), Mr. Bryer, Ms. Christie Chewing (NC), and Mr. Richard Wagner (NV). The nomination slate presented by the Election Committee included current Board members eligible for re-election. The nominees were identified as follows:

- Mr. David Nicholson (OK), Midwest Region
- Mr. L. Michael Romeo (CT), Northeast Region
- Ms. Antoinette Tannous (QC), Canadian Region, and
- Ms. Helen Varcoe (MT), West Region

Membership was invited to offer nominations from the floor. With no nominations received, Mr. Bryer asked for objections to closing the nominations. No objections were recorded.

**Motion:** Mr. Richard, Assistant IFTA Commissioner for the jurisdiction of Arkansas, moved to accept the slate of nominees as presented by the Election Committee. Ms. Stacy Acree, West Virginia IFTA Commissioner, seconded the motion. A roll call vote was taken. The motion passed unanimously.

### **IFTA, Inc. Financial Report/Budget**

Mr. Martorana presented the fiscal report which included the actual report for fiscal year ending 2020 and a proposed budget for the fiscal year ending 2021 to membership. There are fifty-six jurisdictions participating fully in the IFTA Clearinghouse. Quebec continues to work with IFTA, Inc. towards their participation. Clearinghouse funds show a history of an increase since the inception of the Clearinghouse in 2016. In 2019, more than \$515 million had been transmitted through the funds netting process. To date, in 2020, over \$243 million has been transmitted.

It was noted that the effects of the pandemic crisis had little impact on actual commercial traffic with an estimated 32 billion miles traveled during the second quarter 2019 and an estimated 31 billion miles reported for the second quarter 2020. Similarly, an estimated \$104 million in fuel use taxes were reported during the second quarter 2019 while an estimated \$105 million was reported during the second quarter 2020.

IFTA, Inc. has secured an outside auditing firm to assist in completing back financial audits. The Board also approved conducting a SOC I audit during the years when no SOC II audit is conducted on the organization. A SOC I audit will be conducted in 2021. The SOC I audit primarily focuses on controls that have been set in place. A SOC I Type I indicates that proper internal controls are in place. A SOC I Type II tests these controls. A SOC II is very comprehensive and tests for proper internal controls. Further, a SOC II guarantees that these controls exist and work. A SOC II audit was last completed in 2019 and will be repeated in 2022.

In reviewing the organization's revenue and expenses, it was noted that much of the revenue is received from membership dues. These dues have not been adjusted since 2011 and are set at \$17,000. Salaries continue to be the main expense for the organization followed by meeting expenses and then travel. To reduce expenditures, IFTA, Inc. migrated the email server and now uses the Cloud as a document server. This reduces expenses by decommissioning servers and lessens the costs related to the secure co-location expenses.

Reviewing meetings that were canceled in 2020, it was explained that IFTA, Inc. did not incur any fees due to the Coronavirus pandemic. Hotels that IFTA, Inc. contracted with had released the contract based upon a Force Majeure Clause and did not assess any penalties for these cancellations.

Mr. Martorana reviewed the projected budget for 2021 and explained the changes to the expenses which include a decrease in office expense and professional services as well as slight increases to payroll due to full staffing of IFTA, Inc. New revenue resource projections will include a subscription service provided through the website and pertains to those individuals that do not currently have access to the IFTA, Inc. website. Caveats being offered include a dedicated message board, conference calls throughout the year, and access to THE IFTA NEWS. This proposed 2021 budget leaves IFTA, Inc. in a very good and flexible position to face the upcoming events.

**Motion:** Mr. Wayne Brown, IFTA Commissioner for Maine, moved to approve the financial report and budget for fiscal year ending 2021 as presented. Ms. Tannous seconded the motion.

During discussion it was asked to clarify that the budget include the membership dues as outlined in the Agreement and Bylaws.

**Amended Motion:** Mr. Hugh Hughson, Assistant IFTA Commissioner for British Columbia, moved to approve the addition of the \$17,000 membership fee to be included in the original motion. Mr. Bernie Meagher, IFTA Commissioner for Nova Scotia, seconded the motion.

Mr. Bryer asked for opposition to the amendment. With one jurisdiction, Oklahoma, in opposition to the amended motion, this motion passed by a vote of 57 in favor.

**Vote on Original Motion:** A roll call vote was taken. The proposed FYE 2021 budget and membership dues were unanimously approved.

### **Bylaws Amendment**

Mr. Bryer presented the amended Bylaws to membership for discussion and vote. Following the 2019 Annual IFTA Business Meeting the Board reviewed and re-drafted the Bylaws for membership consideration. In addition to the amended sections, Article X and XI were also addressed as they were new amendments added which addressed areas of conflict of interest and how to amend the Bylaws. If ratified, the amended Bylaws would be effective January 1, 2021.

**Motion:** Ms. Tannous moved to approve the amended Bylaws as presented. Mr. Couillard seconded the motion. A roll call vote was then conducted, and the amended Bylaws were approved unanimously.

### **CBID #01-2019 – Untaxed Fuel**

Mr. Nicholson, the Regulatory Programs Manager for the Oklahoma Corporation Commission, and Board member, presented the Consensus Board Interpretation Draft (CBID) to membership for discussion and ratification. This CBID was presented by the Industry Advisory Committee (IAC) and asked the following:

1. Does the direct language in IFTA Articles of Agreement R820 require the inclusion of un-receipted fuel (fuel purchased for which no receipt exists) and untaxed fuel (e.g., fuel purchased on a Native American reservation without tax)?
2. Does the direct language in IFTA Articles of Agreement R950, IFTA Procedures Manual P720, and, more specifically, IFTA Procedures Manual P720.300, require member jurisdictions to: provide a field or space which licensees can use to report all fuel placed into the supply tank of a qualified motor vehicle, regardless of whether a receipt was retained for tax paid credit or whether the fuel was taxed or not?
3. How shall carriers report the correct tax liability to the base and all affected member jurisdictions when the base jurisdiction does not provide properly formatted tax return per IFTA Procedures Manual P720 that enables them to do so?

After much discussion on the issue the Board had agreed upon the following resolution to the CBID request:

- The Board has determined that the Articles of Agreement and Procedures Manual require that all fuel placed in the fuel tanks of qualified vehicles, whether receipted or not, and whether taxed or not, must be reported to calculate the MPG and appropriate fuel taxes.
- Jurisdictions are required to provide tax returns that allow for the calculation of the correct MPG/KPL and appropriate fuel taxes. Per the language of the Articles of Agreement and the Procedures Manual, licensees are required to report all taxable gallons or liters. In order to accomplish this, jurisdictions must provide the ability for the licensee to report all fuel placed in qualified motor vehicles.

It was noted that the Program Compliance Review Committee (PCRC) reviews for this issue during a Program Compliance Review (PCR). Should a review team find this issue during a review, while it is not a current citable offense, the team would reference the error creating the issue to bring the concern to light. Under the current process, only items identified in R1555 can be brought forth for dispute.

**Motion:** Mr. Scott Greenawalt, Assistant IFTA Commissioner for Oklahoma, moved to ratify the Consensus Board Interpretation Draft as presented. Mr. John Panza, North Carolina IFTA Commissioner, seconded the motion.

During discussions it was noted that the CBID interpretation language needed to be amended to include the measurement for “KPL”.

**Amended Motion:** Mr. Greenawalt moved to amend the original motion to ratify the CBID with the “KPL” amendment as recommended. Mr. Panza seconded the amended motion. The motion passed with 55 affirmative votes and 3 member jurisdictions, Florida, North Dakota, and Nova Scotia, who did not vote.

#### **Future Response to Emergency Declarations**

Chair of the IFTA PCRC, Mr. Clint Hester (NC), and Mr. John Szilagyi (CT), PCRC member, presented a recommendation proposed by the committee regarding the 3% requirement during the effects of the pandemic, COVID-19. It was explained that several jurisdictions voiced concern regarding meeting the audit requirement of 3% due to the international pandemic. In response, the committee has held conference calls to discuss the situation and presented a plan for consideration to address the issue.

It was clarified that the PCR process would not change and that a jurisdiction would still be cited for any findings discovered during the review. The PCRC recommended two options for jurisdictions coming under review in the next five years where 2020 reviews would be considered.

A jurisdiction could request the review team omit 2020 wherein the audit count requirement would be adjusted to include the four remaining years of the review period, excluding 2020. Any shortage from this four-year audit would be added into the next review cycle and would need to be made up prior to the next compliance review. Audits completed in 2020 would not be counted in the make-up audits.

The second option presented allows a jurisdiction to include 2020 in the 3% audit requirement counts. Any shortage would still need to be completed prior to the next compliance review and audits completed in 2020 would be counted in these make-up audits.

This decision can be made by the reviewed jurisdiction during the post-audit review conference call. This proposal removes the burden from the Board and puts it back on the individual jurisdictions.

Mr. Bryer and Mr. Nicholson then presented an alternate recommendation from the Board that also addressed this issue. It was the Board’s proposal to exclude 2020 from the review process due to the pandemic and limited jurisdictional resources available to meet the 3% audit requirement.

This issue was discussed at length. It was felt that the full impact of the pandemic may not be immediately felt. It was also clarified that the recommendation presented by the PCRC would only affect the 3% audit requirement and no other audit related findings.

**Motion:** Ms. Tannous moved to accept the Program Compliance Review Committee recommendation as presented. Ms. Virginia Barnett, Assistant IFTA Commissioner for Ontario, seconded. A roll call vote was taken wherein 55 jurisdictions were in favor of accepting the recommendation and 3 jurisdictions, Nebraska, Nevada, and South Dakota, abstained. The motion passed.

It was clarified that this motion will not change the Agreement but indicates to the Board that there is membership support to direct the PCRC to proceed with the presented recommendation.

Mr. Bryer recessed the business meeting for the day.

#### **Roll Call of Voting Delegates**

Following the call to order by Mr. Bryer on the second day, Mr. Martorana conducted an official roll call of membership to ensure the quorum was met. Fifty-six member jurisdictions were in attendance or represented by proxy. Mr. Martorana announced that there was a quorum to continue conducting the business of the association.

### **IRP, Inc. Update**

Mr. Tim Adams, IRP, Inc. CEO, presented an update of IRP, Inc. and explained that many adjustments had been made to continue providing services and keeping membership engaged during the COVID-19 pandemic. The IRP Committees continue to meet and are functioning normally.

The 2020 IRP Annual Meeting, originally scheduled for May, had been cancelled. IRP, Inc. decided to switch the 2020 IRP/IFTA Managers' and Law Enforcement Workshop to a virtual event rather than an in-person workshop. IRP, Inc. will provide information on how interested parties can be a part of this upcoming event. Currently, future events are uncertain as the pandemic continues its global effects. However, IRP, Inc. continues to experiment with different platforms and methods to ensure quality products that are beneficial to membership.

IRP, Inc. noted a large decrease of funds netting back in April 2020. In 2019 over a billion dollars went through the IRP Clearinghouse.

The Learning Management Systems (LMS) will enhance training and education opportunities by providing online interactive training for both IRP and IFTA membership. IRP is working towards an announcement release regarding this new program soon.

There are two IRP ballots out for vote. Ballot 434 requires membership to upload data to the IRP Repository daily. It does not eliminate the requirement to present either a cab card or electronic image of a cab card at the roadside. IRP ballot 435 addresses the composition of the IRP Board of Directors to change the current rotating position to an at-large position.

The IRP Data Repository Project will create a new data repository that will host an updated, modernized, and enhanced IRP Clearinghouse system, provide for enhanced reporting to include ad hoc reporting capabilities, provide an enhanced audit exchange tool, support the electronic verification of operating credentials (EVOC), have an improved waiver and extension process, and many other possible opportunities. This project is in the final stages of selecting a vendor and beginning actual development.

IRP, Inc. continues to post waivers and extensions resulting from the COVID-19 pandemic as soon as possible upon receipt. This process does need improvement to assist membership and industry alike to keep everyone up to date and aware in a timely fashion.

### **FTPBP #01-2020**

Mr. Trent Knoles, IFTA Commissioner for the Illinois Department of Revenue, presented IFTA Full Track Preliminary Ballot Proposal (FTPBP) #01-2020 for discussion. The intent of this ballot is to define "eligible member jurisdiction" as an active member jurisdiction not found out of compliance by the Dispute Resolution Committee (DRC) and having an identified commissioner or delegate. Additionally, this ballot's intent is to provide a representative denominator on which the majority vote of eligible member jurisdictions is based. Accordingly, the act of removing an ineligible jurisdiction from the voting process also removes the automatic assignment of a "no" vote to that jurisdiction.

It was noted that the Agreement currently allows only active member jurisdictions and their Commissioners, or voting delegates, authority to vote. This pool is valid of all 58 member jurisdictions regardless of their active status. Referencing the denominator, it was noted that at the 2015 Annual IFTA Business Meeting, only 54 voting delegates were present and Short Track Preliminary Ballot Proposal (STPBP) #08-2015 failed due to a lack of eligible votes received. The ballot had received 41 affirmative votes out of a possible 44.

Outlining the benefits of this ballot proposal, it was explained that a more-accurate disposition of the vote is realized when only those eligible to vote are included in the vote. During discussions it was felt that the ballot presented two separate points and that they should not be a part of the same ballot but separated in two different ballots.

Concluding the discussions, a straw poll was taking to show which jurisdictions might oppose the ballot. Two jurisdictions were in opposition to the full track ballot proposal. Mr. Knoles thanked membership for their comment and will take the recommendations under advisement.

#### **FTPBP #02-2020**

Mr. Paul Nilsen (WI) and Mr. David Poore (BC) presented this ballot proposal for discussion. The intent of this ballot is to amend the Agreement to recognize an Attorneys Committee as a standing committee so that it could continue providing support to membership.

Prior to the Annual IFTA Business Meeting, twenty-eight jurisdictions expressed support for the ballot as presented and one jurisdiction was opposed while other jurisdictions remained undecided.

It was explained that IFTA exists in a complex legal environment which includes laws from two countries, sixty different sovereign jurisdictions, two federal governments, and constitutions from two countries. There is a strong need to have a mechanism like an Attorneys Committee where these issues can be addressed and reviewed by attorneys to better assist membership. This committee would not have decision making power nor would it sponsor ballots. The committee would be an advisory and training body.

**Motion:** Mr. Hughson moved that Full Track Preliminary Ballot #02-2020 be moved to the short track ballot process. Mr. Brown seconded the motion.

During further discussions it was noted that the strategic need of establishing this Attorneys Committee as a standing committee would be to have and retain a knowledge base of attorneys at the disposal of membership and have the ability to discuss the issues as well as identifying contacts to communicate with.

**Vote on Motion:** Following discussions, a roll call vote of the motion passed with 51 in favor, four jurisdictions, Arkansas, Illinois, Montana, and Oklahoma, in opposition, one abstention from Virginia, and two jurisdictions, Rhode Island and West Virginia, who did not vote. FTPBP #2-2020 will be moved to the short track ballot process.

#### **IFTA Clearinghouse Report**

Ms. Monica Halstead, IFTA, Inc. Business Supervisor, presented an update regarding the Clearinghouse. All members have signed the new 2020 Clearinghouse Access Agreement. The new Agreement became effective June 24 and is now a clearer and more concise document.

Clearinghouse internal procedures now have automated processes and consolidation of a funds tracking page. Since July 2019, there were seven months wherein a jurisdiction was late in funding the account. Ms. Halstead explained that it was never the same jurisdiction.

During the height of the COVID-19 pandemic, demographic and transmittal hits were reduced. However, these numbers have been increasing recently. The Clearinghouse Advisory Committee (CAC) has also published a Best Practices Guide for both the transmittal and demographics. Recently, a joint subcommittee was also established with the Law Enforcement Committee (LEC) to identify any barriers to utilizing the clearinghouse at roadside.

#### **IFTA, Inc. Update**

Mr. Martorana presented the IFTA, Inc. update to membership. IFTA, Inc. has terminated the lease and vacated the office location effective July 2020. All Team members are working 100% remotely and the use of on-demand office space will be considered as needed for future team meetings.

The internal email and document server migration has been completed. IFTA, Inc. now utilizes Microsoft Office 365 and the Cloud. This change allowed for additional cost savings to the organization.

IFTA, Inc. has implemented an automated system for the funds netting processing to reduce risk of errors and to streamline the process. IFTA, Inc. is also researching and instituting other streamlined and automated processes including approvals and bill paying processes.

Reviewing future events, it was noted that IFTA, Inc. would not sign any additional hotel contracts until after the October Board meeting. At that time, the Board will review travel restrictions and the course of COVID-19 and its effects on future events such as the 2021 IFTA/IRP Audit Workshop. Further, whether it is held in-person or virtually, the Audit Workshop may be postponed to late spring 2021 instead of February. It was observed that any training IFTA, Inc. could provide for auditors would be a valuable tool, especially for new auditors.

The CAC is finalizing a report to the Board regarding the modernization of the clearinghouse. The Board will review this issue in October and intends to have a better direction for the platform for the clearinghouse in the future.

Both IFTA and IRP are working together to secure an LMS platform for use by the 2020 IRP/IFTA Managers' and Law Enforcement Workshop. Once the platform is secured, the next step would be platform content.

### **Open Discussion**

Mr. Bryer led this open discussion of membership issues. In advance of the virtual meeting, several issues were submitted for discussion. The jurisdiction of Florida presented inquiries relating to fuel use permit policies. These inquiries related to:

- Circumstances under which jurisdictions require carriers to purchase a fuel permit from their base jurisdiction
- If jurisdictions allow one of the proofs to be in the form of a fuel permit from the base jurisdiction in addition to having a proof of fuel permit from at least one bordering jurisdiction
- Do base jurisdictions require their carriers to obtain a fuel permit for their qualified motor vehicles when re-entering the base jurisdiction regardless of whether fuel permits were properly obtained from other jurisdictions

Several jurisdictions discussed their fuel use permit policies. These policies, depending on the jurisdiction, can be valid for a single trip, single day, or specified number of days from the date of purchase. Some jurisdictions limit the number of trip permits a taxpayer can purchase within a calendar year. Jurisdictions which responded to Florida's inquiry include, but may not be limited to, Arizona, Michigan, New Hampshire, Nevada, Oklahoma, Quebec, Tennessee, Texas, and Virginia.

The jurisdiction of North Carolina asked for clarification on how jurisdictions handle lease agreements including verification, collection, and retention of such agreements. It was explained that, in New Hampshire, records can be reviewed, and that the inquiry can be expanded to determine the number of vehicles in a fleet.

North Carolina also inquired as to the law in other jurisdictions as it relates to due dates and extensions in relation to Article R960 which states, in part:

“The tax return and full payment of taxes shall be due on the last day of the month following the close of the reporting period for which the tax return is due.”

It was noted that some jurisdictions do not have the authority to waive late fees on behalf of other jurisdictions nor are they permitted to change due dates for jurisdictions other than their own. It was also expressed that some jurisdictions cannot override the due dates as outlined in the IFTA Agreement. It was felt that this might be a legal issue pertaining to jurisdiction sovereignty that an Attorneys Committee could research.

Option 2 was also briefly discussed. As outlined in R1380, Option 2 states, in part:

“The base jurisdiction may make payment of an audit liability in full to each affected member jurisdiction. If all or a portion of the funds originally remitted to the affected member jurisdictions is subsequently deemed uncollectible ...[sic] the base jurisdiction will be entitled to a refund of money previously remitted.”

The jurisdiction of Pennsylvania inquired about electricity as a vehicle fuel and how it would be reported in qualifying vehicles. Currently, electricity is not a fuel type as defined in the IFTA Agreement. Nevertheless, the IFTA Clearinghouse does have a fuel use type for electric vehicles, EV. However, to date, there is no transmittal for this fuel use type.

It was explained that some jurisdictions collect a fee for electric vehicles through the vehicle registration process under IRP. Mr. Michael Dougherty, Federal Highway Administration (FHWA), reported that recent data showed twenty IFTA member jurisdictions currently have existing registration fees for electric vehicles. It was recommended that IFTA continue to keep this issue in the forefront in order to reach a solution before a problem exists.

Pennsylvania also inquired about the impacts of COVID-19 and its impact on office supplies and materials such as decals and how they are distributed. Other jurisdictions do not permit items such as the IFTA decal to be removed and distributed from an employee’s home.

Fielding issues from the floor, Mr. Charles Ledig, Penske, commented on electronic credentialing. It was noted that, due to the pandemic, the delay of credentials to fleets left several carriers unable to operate. COVID-19 caused a tremendous challenge to industry as well as membership. Mr. Ledig urged the organization to consider procedures that could address crisis situations before they become critical. It was recommended that a consolidated, uniform, and coordinated approach be considered as the current crisis had no single, unified approach which then put many fleets out of operation. IFTA was encouraged to think more long term as it moves forward in addressing national crises.

### **2021 Invitational**

Mr. Bryer invited membership and guests to the 2021 Annual IFTA Business Meeting. This event is scheduled for August 18 – 19 at the Marriott Mission Valley hotel in San Diego, CA. Information regarding this event will be released to the IFTA, Inc. website and through THE IFTA NEWS as more details are made available. At this time, the Board and Team are preparing for this event to be in-person and will be observant of any and all health safety measures necessary.

### **Adjournment**

Mr. Bryer asked for a motion to adjourn the 2020 Annual IFTA Business Meeting.

**Motion:** Ms. Tannous moved to adjourn the 2020 Annual IFTA Business Meeting. Mr. Meagher seconded the motion. With no objections noted, the 2020 Annual IFTA Business Meeting was adjourned.