

**FOR VOTE BY JANUARY 21, 2022**



**IFTA**  
International Fuel Tax Association Inc.

**IFTA SHORT TRACK FINAL BALLOT PROPOSAL  
#01-2021**

**Sponsor**

IFTA, Inc. Board of Trustees

**Date Submitted**

April 9, 2021

**Proposed Effective Date**

Upon Passage

**Manual Sections to be Amended** (January 1996 Version, Effective July 1, 1998, as revised)

Articles of Agreement, Section R1555

**Subject**

Submission of a Final Determination Finding of Non-Compliance to the Membership

**History/Digest**

Dating back to 2003, the IFTA, Inc. Board of Trustees (“Board”) and the Program Compliance Review Committee (“PCRC”) have been working to implement a report from the PCRC to establish a mechanism for the PCRC to initiate a dispute against a jurisdiction.

Following the failure of Ballot 12-2006 and 2-2007, Ballot 1-2009 passed with the creation of R1555.100.015, R1555.200, and R1555.300.

More recently, a survey of member jurisdictions indicated a need to review the DRC’s processes. Subsequent discussions have revealed a discontent with the length of time a dispute can take from start to finish and with the overly legalistic nature of the process. One area identified as a contributing factor to those dissatisfactions is the requirement for a membership vote to transfer a finding of non-compliance from the PCRC to the DRC. Member jurisdictions have 30 days to vote on these matters.

On October 16, 2020, IFTA Inc. issued a non-binding survey which included the question: “Under R1555.300 of the Articles of Agreement, a vote of the member jurisdictions is required in order to initiate a dispute before the DRC in those cases where the Program Compliance Review Committee has made a Final Determination Finding of Non-Compliance. To streamline the current compliance enforcement process, should R1555.300 be amended to eliminate the requirement of a membership vote?”

Of the 49 member jurisdictions which replied to this question in the survey, 35 were in favour and 14

replied “no.” As the change referenced in the survey is a change to the Agreement, a ballot is required before any change can actually be made.

Since implementing this change to the agreement, there has been one vote.

As written, the agreement is clear as to what the outcome would be if a vote receives the required 2/3rds affirmative; however, it is silent as to the outcome if that threshold is not reached.

### **Intent**

The intent of this ballot is to continue with the direction provided in question 2 of the October 16, 2020 survey and remove the requirement for a member jurisdiction vote on permitting a Final Determination of Non-Compliance to be advanced as a dispute. This change will not impact the sections of the Agreement in which a jurisdiction must be non-compliant before a dispute can be started. This also does not take away from the PCRC’s reassessment and follow up processes.

**Interlining Indicates Deletion; Underlining Indicates Addition**

1 \*R1555 COMPLIANCE MATTERS

2  
3 .100 Dispute Resolution Process

4  
5 Disputes concerning issues of compliance with the International Fuel Tax Agreement may  
6 be resolved pursuant to the IFTA Dispute Resolution Process. The IFTA Dispute  
7 Resolution Process may be utilized to resolve only:

8  
9 .005 Compliance disputes between member jurisdictions;

10  
11 .010 Compliance disputes between member jurisdictions and IFTA licensees in those  
12 matters where no administrative remedy to the IFTA licensee is available within  
13 the member jurisdiction involved in the dispute. Compliance disputes subject to  
14 this section shall not include disputes between member jurisdictions and IFTA  
15 licensees over matters of substantive jurisdiction law, including but not limited to,  
16 laws governing the imposition, assessment, and collection of jurisdiction motor fuel  
17 use taxes collected pursuant to the International Fuel Tax Agreement; and

18  
19 .015 Compliance matters where (i) the Program Compliance Review Process,  
20 including follow-up ~~and/or reassessment~~, has been completed; and (ii) a Final  
21 Determination Finding of Non-Compliance has been issued by the Program  
22 Compliance Review Committee related to Sections R970, R1210, R1230,  
23 R1260, R1270, R1370, R1380, P1040, A250 or A260 ~~U., and (iii) a~~  
24 ~~recommendation for initiation of a dispute from the Program Compliance~~  
25 ~~Review Committee has been approved by the member jurisdictions as defined~~  
26 ~~in Article R1555.300.~~

27  
28 .200 Submission of a Final Determination Finding of Non-Compliance ~~to the~~  
29 Membership

30  
31 A Final Determination Finding of Non-Compliance issued by the Program Compliance  
32 Review Committee related to Sections R970, R1210, R1230, R1260, R1270, R1370,  
33 R1380, P1040, A250, or A260, ~~shall be submitted to the membership to determine~~  
34 ~~whether a dispute will be initiated~~ where follow-up ~~and/or reassessment~~ has been  
35 completed, shall be forwarded to the IFTA Dispute Resolution Committee, to be  
36 heard as a dispute, with a copy to the Executive Director of IFTA, Inc. for notification  
37 to all member jurisdictions.

38  
39 ~~-.300—Initiation of a Dispute Based on a Final Determination Finding of Non-Compliance~~

40  
41 ~~-.005—Member jurisdictions will have thirty (30) days to vote on the initiation of a dispute~~  
42 ~~based on a Final Determination Finding of Non-Compliance.~~

43  
44 ~~-.010—Votes on the initiation of a dispute based on a Final Determination Finding of Non-~~  
45 ~~Compliance must be cast by the IFTA commissioner or a delegate named in writing by~~  
46 ~~the commissioner.~~

47  
48 ~~-.015—For purposes of this section, a vote submitted electronically through a mechanism~~  
49 ~~provided by the International Fuel Tax Association, Inc. is deemed a vote in writing.~~

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~~.020 — An affirmative vote in writing of at least two-thirds of the total written votes cast is required to initiate a dispute based on a Final Determination Finding of Non-Compliance.~~

~~.025 — If the member jurisdictions approve the initiation of a dispute based on a Final Determination Finding of Non-Compliance, the Program Compliance Review Committee shall forward the Final Determination Finding of Non-Compliance to the IFTA Dispute Resolution Committee to initiate a dispute.~~

**NO REVISIONS FOLLOWING THE SECOND COMMENT PERIOD**

**FTPBP #1-2021**  
**First Comment Period Ending June 1, 2021**

Support: 25  
Oppose: 1  
Undecided: 0

**ALABAMA**

Support

**ALBERTA**

Support

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

**IDAHO**

Support

**INDIANA**

Support

**KANSAS**

Support

**KENTUCKY**

Support

**MAINE**

Support

**MANITOBA**

Support

**MARYLAND**

Support

**MICHIGAN**

Support

**MINNESOTA**

Support

**MISSOURI**

Support

**NEBRASKA**

Support

**NEVADA**

Support

**FTPBP #1-2021**  
**First Comment Period Ending June 1, 2021**

**NEW BRUNSWICK**

Support

**NEW HAMPSHIRE**

Support

**NEWFOUNDLAND**

Support

**NORTH CAROLINA**

Support

The existing language provides that after the Final Determination Finding of Non-Compliance the DRC must initiate a dispute. This language is absent in the proposed ballot. This could be problematic where the Rule does not place an obligation on the DRC to proceed with the dispute process. Specifically, the ballot only provides that the Final Determination Finding of Non-Compliance "shall be forwarded" the DRC.

**ONTARIO**

Support

**QUEBEC**

Support

The article R1555.200.020 is clear as to the outcome of the vote if it obtains 2/3 of the required affirmative votes but it's silent as to the outcome if the threshold is not reached. We believe this comment doesn't add anything and could be deleted.

**RHODE ISLAND**

Oppose

**SASKATCHEWAN**

Support

**SOUTH DAKOTA**

Support

**WASHINGTON**

Support

**STPBP #1-2021**  
**Second Comment Period Ending November 8, 2021**

Support 17  
Oppose 2  
Undecided 0

**ALABAMA**

Support

**ALBERTA**

Support

**CALIFORNIA**

Support

**IDAHO**

Support

**KANSAS**

Support

**KENTUCKY**

Support

**MAINE**

Oppose

We do not believe the removal of the membership vote required by section R1555.300.005 before the PCRC takes a member to the DRC is a good move. Keep in mind that the PCRC reviews for all member jurisdictions. Regardless of the reason a jurisdiction is taken before the DRC it could result in expulsion R1555.400. If a State is expelled it cannot collect fuel tax.

The following is from the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 “after September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which provides for the payment of a fuel use tax unless such law or regulation is in conformity with the International Fuel Tax Agreement with respect to collection of such a tax by a single base State and proportional sharing of such taxes charged among the State where a commercial vehicle is operated”.

**MANITOBA**

Support

**MISSOURI**

Oppose

**NEVADA**

Support

**NEW BRUNSWICK**

Support

**STPBP #1-2021**  
**Second Comment Period Ending November 8, 2021**

**NEWFOUNDLAND**

Support

**NORTH CAROLINA**

Support

North Carolina raises the following two issues that it would like the sponsor to respond to or otherwise address: (1) whether the ballot intended to place an administrative duty on the Executive Director of IFTA, Inc.; and (2) whether the ballot intended to reference the Report and Follow Up Procedures generally when it struck reference to the reassessment.

First, R1555.200 provides that the finding shall be forwarded to the DRC and a copy to the "Executive Director of IFTA, Inc. for notification to all member jurisdictions." This is phrased as if the Executive Director is to perform the notification. Did the sponsor intend to place a duty on the Executive Director to distribute the finding to the member jurisdictions or did the sponsor intend that the Executive Director receive a copy of the finding along with the member jurisdictions? It may be more consistent within the roles of the Executive Director and the repository to assign the distribution duty to the repository. The repository can then distribute the finding to both the Executive Director and the member jurisdictions.

Second, the ballot removes, twice, reference to the reassessment. The resulting ballot language focuses on whether the "follow-up has been completed." North Carolina is seeking clarification on whether the sponsor intended to reference entire process related to the follow-up procedures. The *IFTA Program Compliance Review Guide* references both the "Report and Follow Up Procedures" and the "Follow Up and Reassessment Process."

It appears that the Report and Follow Up Procedures include what is separately delineated into the follow-up process and the reassessment process. If the ballot's reference is to the process generally, it may be more clear for the ballot to reference completion of either the: (1) "Report and Follow Up Procedures"; or (2) "Follow Up and Reassessment Process."

Alternatively, the sponsor could also consider striking all reference to follow-up and reassessment altogether. The process currently integrates the issuance of the Final Determination Finding of Non-Compliance within the process itself. Therefore, reference to the "Follow Up Procedures" or the "Follow Up and Reassessment Process" is unnecessary.

North Carolina understands that the Guide can be amended at any time and the questions are based on the current document maintained by the Program Compliance Review Committee.

**ONTARIO**

Support

**QUEBEC**

Support

**RHODE ISLAND**

Support

**SOUTH DAKOTA**

Support



**STPBP #1-2021**  
**Second Comment Period Ending November 8, 2021**

**WASHINGTON**

Support

**WYOMING**

Support

**IFTA SHORT TRACK FINAL BALLOT PROPOSAL 1-2021  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
ALABAMA	1		1	
ALBERTA	1		1	
ARIZONA	1		1	
ARKANSAS	1		1	
BRITISH COLUMBIA	1		1	
CALIFORNIA	1		1	
<b>COLORADO</b>				
CONNECTICUT	1		1	
DELAWARE	1		1	
FLORIDA	1		1	
GEORGIA	1		1	
IDAHO	1		1	
ILLINOIS	1		1	
INDIANA	1		1	
IOWA	1		1	
KANSAS	1		1	
KENTUCKY	1		1	
LOUISIANA	1		1	
MAINE		1		1
MANITOBA	1		1	
MARYLAND	1		1	
<b>MASSACHUSETTS</b>				
MICHIGAN	1		1	
<b>MINNESOTA</b>				
<b>MISSISSIPPI</b>				
MISSOURI		1		1
MONTANA	1		1	
NEBRASKA	1		1	
NEVADA	1		1	
NEWFOUNDLAND	1		1	
NEW BRUNSWICK	1		1	
NEW HAMPSHIRE	1		1	
NEW JERSEY	1		1	
<b>NEW MEXICO</b>				
<b>NEW YORK</b>				
NORTH CAROLINA	1		1	
NORTH DAKOTA	1		1	
NOVA SCOTIA	1		1	
OHIO	1		1	
OKLAHOMA	1		1	
ONTARIO	1		1	
OREGON	1		1	
PENNSYLVANIA	1		1	
PRINCE EDWARD ISLAND	1		1	
QUEBEC	1		1	
RHODE ISLAND	1		1	
SASKATCHEWAN	1		1	

**IFTA SHORT TRACK FINAL BALLOT PROPOSAL 1-2021  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
<b>SOUTH CAROLINA</b>				
SOUTH DAKOTA	1		1	
TENNESSEE	1		1	
TEXAS	1		1	
UTAH	1		1	
VIRGINIA	1		1	
VERMONT	1		1	
WASHINGTON	1		1	
WEST VIRGINIA	1		1	
WISCONSIN	1		1	
WYOMING	1		1	
<b>TOTALS</b>	<b>49</b>	<b>2</b>	<b>49</b>	<b>2</b>

**Bold font in the voting total columns and shading indicate that the jurisdiction did not vote.**

Failure to vote for the ballot language counts as a "No" vote.

Failure to vote for the alternative effective date counts as a "No" vote.

**Number of "YES" votes necessary to pass: 44**

**Effective Date: January 21, 2022**

**LANGUAGE:**

NUMBER OF "YES" VOTES RECEIVED: **49**

NUMBER OF "NO" VOTES RECEIVED: **2**

NUMBER OF VOTES NOT RECEIVED: **7**

**RESULT: PASSED**

**ALTERNATIVE EFFECTIVE DATE:**

NUMBER OF "YES" VOTES RECEIVED: **49**

NUMBER OF "NO" VOTES RECEIVED: **2**

NUMBER OF VOTES NOT RECEIVED: **7**

**RESULT: PASSED**

**Ballot Intent:**

The intent of this ballot is to continue with the direction provided in question 2 of the October 16, 2020 survey and remove the requirement for a member jurisdiction vote on permitting a Final Determination of Non-Compliance to be advanced as a dispute. This change will not impact the sections of the Agreement in which a jurisdiction must be non-compliant before a dispute can be started. This also does not take away from the PCRC's reassessment and follow up processes.

**FOR VOTE BY MARCH 29, 2022**



**IFTA FULL TRACK FINAL BALLOT PROPOSAL  
#02-2021**

**Sponsor**

Jurisdictions of North Dakota and South Dakota

**Date Submitted**

April 9, 2021

**Proposed Effective Date**

Upon Passage

**Manual Sections to be Amended**

IFTA Articles of Agreement:  
IFTA Audit Manual Audit Program Standards  
Procedures Manual

Article II, Section R200 Definitions  
A250 Selection of Audits  
P1100 Base Jurisdiction Reporting

**Subject**

This ballot proposal would provide jurisdictions a means of implementing a Licensee education program that would both enhance Licensee compliance and recognize the jurisdictions efforts and dedication to educating Licensees on compliance issues.

**History/Digest**

The IFTA program requires annual audits of 3% of a jurisdiction's IFTA Licensees. The audit function has been the driving force in determining and ensuring compliance with the IFTA program. The IFTA community continues to discuss ways of meeting audit requirements due to limited or constrained resources. Past attempts at allowing IFTA record reviews to count toward audit credits have failed to pass, however; jurisdictions continue to look for efficiencies to meet audit requirements set forth by the IFTA program.

**Intent**

This ballot is being submitted in consideration for changes to the IFTA Manual, to allow jurisdictions to receive an audit credit or partial audit credit for conducting an IFTA records review. The record review program would provide jurisdictions with an optional opportunity to obtain audit credits for being proactive in educating Licensees regarding program compliance. Record Reviews would allow jurisdictions to provide Licensees with the opportunity to adjust their reporting and recording systems to ensure compliance with the IFTA program agreement. In the long term, jurisdictions that choose to implement a record review program could also see a reduction in audit hours due to Licensees having records that are now in compliance with IFTA plan requirements. The record review program would provide benefit to the Licensee, Jurisdictions, and IFTA by achieving the goal of educating carriers to enhance and encourage

compliance by reaching more carriers than by only conducting audits. The ballot proposal would allow Records Reviews conducted during the jurisdictions current review period to be counted and included in the audit count requirement.

FAILED

**Interlining Indicates Deletion; Underlining Indicates Addition**

1 **IFTA Articles of Agreement:**

2 **Article II, Section R200 Definitions**

3  
4 **R248 Records Review** means an evaluation of a Licensee's distance and fuel accounting system and  
5 internal controls to assess the Licensee's compliance with the requirements of the Agreement. A  
6 Records Review:

- 7 1. will be limited in scope and will be less than a full year.  
8 2. may be conducted before the licensee's first full license renewal.  
9 3. will not compare records to a quarterly return.  
10 4. will not result in an assessment.  
11 5. will result in a written report educating the taxpayer on compliance with the record keeping,  
12 internal controls and reporting requirements of the agreement.

13  
14 **R248 R249 Recreational Vehicle** means vehicles such as motor homes, pickup trucks with attached  
15 campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a  
16 recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

17 **IFTA Audit Manual Audit Program Standards**

18 **A250 Selection of Audits**

19  
20 **\*A250 NUMBER OF AUDITS**

21 Base jurisdictions will be held accountable for audits and will be required to complete audits of an  
22 average of 3 percent per year of the number of IFTA accounts required to be reported by that jurisdiction  
23 on the annual reports filed pursuant to the IFTA Procedures Manual, Section P1110.300.005 excluding  
24 new Licensees, for each year of the program compliance review period, other than the jurisdiction's IFTA  
25 implementation year. Such audits shall cover all of the returns that were filed or required to be filed during  
26 a license year or shall cover at least four (4) consecutive quarters. This does not preclude audits of  
27 individual Licensees several times during the program compliance review period. However, audits of a  
28 single Licensee that cover multiple license years, fuel types, or both shall be counted as one audit for  
29 program compliance review purposes.

30  
31 For purposes of this requirement, a Member Jurisdiction may substitute three Records Reviews for one  
32 Audit; provided, that no Member Jurisdiction may substitute Records Reviews for more than twenty-five  
33 percent of the total of the Audits required under this section. In order to use Records Reviews as a  
34 substitute for Audits, a Member Jurisdiction must adopt formal procedures that comply with the guidelines  
35 for Records Reviews set out in the Audit Manual. All accounts may be subject to a Records Review.  
36 Records Reviews cannot count toward the high or low distance audit requirement established in Section  
37 A260 Selection of Audits of the IFTA audit manual. All Records Reviews will count towards the  
38 unspecified distance account audit requirements.

39  
40 **A500 RECORDS REVIEW**

41  
42 A Base Jurisdiction may perform a Records Review of any Licensee's distance and fuel reporting system  
43 to ensure compliance with the Agreement. A Records Review is a thorough evaluation of the Licensee's  
44 internal controls and record-keeping system to ensure compliance with the Agreement. The purpose of  
45 performing a Records Review is to mitigate potential record keeping compliance issues.

46  
47 .100 The primary differences between an Audit and a Records Review are that a Records  
48 Review:

49  
50 .005 focuses only on an evaluation of internal controls and compliance of the distance  
51 and fuel reporting system using requirements found in A320, except A320.500  
52 and A320.600 of the Audit Manual;

- 53  
54 .010 will be limited in scope to less than a full Reporting Period;  
55  
56 .015 may be conducted before the first renewal;  
57  
58 .020 will be part of an overall education plan on educating the Licensee of IFTA  
59 record-keeping requirements as set forth in the base jurisdictions procedures;  
60  
61 .025 it cannot compare records to a quarterly tax return to determine adjustments; and  
62  
63 .030 cannot result in any tax assessments.  
64

65 **A510 Records Review Implementation**

- 66  
67 .100 A Member Jurisdiction electing to institute a Records Review program that qualifies  
68 towards the annual Audit requirement must establish procedures and guidelines similar to  
69 those for Audits. The Records Review procedures must:  
70  
71 .005 comply with requirements in A240.100 to A240.400 Auditor Qualifications and  
72 Responsibilities;  
73  
74 .010 document the distance and fuel reporting system used by the Licensee, the items  
75 included in the source documents, and the sources used by the Licensee to  
76 determine distances and fuel reporting;  
77  
78 .015 assess and document internal controls;  
79  
80 .020 evaluate the compliance of the records with IFTA requirements and identify  
81 specific deficiencies;  
82  
83 .025 furnish a written report in compliance with section A460.100 (except  
84 A460.100.50), A460.200, and A460.500.005 to A460.500.015, of the Audit  
85 Manual;  
86  
87 .030 record all contacts with the Licensee; and,  
88  
89 .035 retain the completed Records Reviews according to the prevailing IFTA Peer  
90 Compliance Review Audit records retention requirements.  
91  
92 .200 It is strongly recommended that the base jurisdiction conduct a follow up contact with the  
93 Licensee if non-compliance issues are noted.  
94  
95 .300 Notwithstanding Section A240, Records Reviews may be conducted by personnel  
96 processing Licensee applications if they meet all other provisions of the Manual.  
97  
98 .400 Completing a Records Review precludes that Licensee from an audit for 180 days after  
99 the completion of the review to allow the Licensee to correct deficiencies found in the  
100 review.  
101

102 The intent of the Records Review program is to educate Licensees regarding IFTA requirements while  
103 providing credit to the jurisdiction for the education efforts. A Records Review should not be used to find  
104 noncompliant Licensees for audit. If non-compliant records are found the jurisdiction should educate that  
105 carrier on record keeping and reporting methods and instruct that carrier to file amended returns for  
106 previously filed returns. A Records Review cannot be converted to an audit.  
107

108 **IFTA Procedures Manual:**  
109 **P1100 Base Jurisdiction Reporting**

110  
111 **P1110 Annual Reporting**

112  
113 **.400 Audit Information**

- 114  
115 .005 Number of accounts audited;  
116  
117 .010 Number of accounts audited resulting in financial changes to one or more  
118 jurisdictions;  
119  
120 .015 A jurisdiction that has a Records Review program established conforming to  
121 section A510 shall report the total number of record reviews on the annual report.  
122

**NO REVISIONS FOLLOWING THE SECOND COMMENT PERIOD:**

**FINAL**



**FTPBP #2-2021**  
**First Comment Period Ending June 1, 2021**

Support: 15  
Oppose: 5  
Undecided: 5

**ALABAMA**

Support

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

Generally, support the idea but there will need to be more details on how a jurisdiction would meet this goal and get an audit credit.

**IDAHO**

Support

**INDIANA**

Support

Indiana supports the ballot. The process of records reviews is in keeping with A100. A Records Review can help to ensure compliance with the IFTA through education, and is completed on behalf of all member jurisdictions. However, some of the requirement language might need some clarification: Line 33: 'All accounts will be subject to a records review'. This appears as if all accounts must be review. Maybe a 'may' should replace the 'will'. Line 83-84: Replace 'IFTA Peer Review' with the updated 'Program Compliance Review'. Lines 92-93: Does this contradict lines 95-97? That section indicates that the records review is not intended to find noncompliant licensees.

**Industry Advisory Committee**

The IFTA IAC supports any effort to assist in educating carriers on reporting correctly. Record reviews allows a jurisdiction to review the process and fix issues with more carriers than the current audit process. The ultimate goal is compliance and this is a good way to help with driving compliance.

**KANSAS**

Support

Currently IRP allows the use of records reviews. Since we do both types of audits we have not used that process since it only deals with IRP. Having both organizations allowing records reviews will give us the opportunity to incorporate this into our audit program. It may only marginally help us with meeting our numbers as there is a certain amount of time required to do the documentation, make contact, etc. to get counted for an audit and it requires 3 to get credit for one.

The effective date is January 1, 2021, are ballots usually retrospective?

Line 33 of the ballot, second sentence. All accounts will be subject to a records review. To us that implies everyone is going to have one. I am thinking it should say *can* be subject to a records review.

If the ballot passes then there should be education/promotion especially too the device providers and the carriers what the requirements are.

**FTPBP #2-2021**  
**First Comment Period Ending June 1, 2021**

**KENTUCKY**

Undecided

**MAINE**

Oppose

We do not perform record reviews for IRP and do not believe a record review for a tax return is appropriate and do not see this as auditing on behalf of all member jurisdictions.

Update:

A few jurisdictions that appear in favor of record reviews for IFTA refer to “new licensees”. This does not appear to be included in the current ballot language. As currently proposed a record review can be performed on a licensee that has been in IFTA for years. Is it the opinion of those jurisdictions that record reviews be performed only on new licensees? If so, what should the limitation be for new? 18 months?

**MANITOBA**

Support

Manitoba would be interested in receiving credits or partial credits for conducting IFTA Record Reviews on Licensees.

While conducting IFTA audits on new Licensees, auditors have found that many of them have inadequate records and internal controls. We would welcome the opportunity to visit new Licensees (outside of an audit) to conduct a review of Licensees’ records and internal controls and provide recommendations for improvement and compliance. Also, if these reviews take less time than an audit, we would be able to review more new licensees than we do currently.

In Manitoba, we currently conduct similar reviews of our new provincial sales tax registrants. They are contacted by our compliance unit, and are provided with general remittance information and recommendations on proper tax remittance procedures. These compliance reviews are typically well-received by registrants.

**MARYLAND**

Support

**MICHIGAN**

Oppose

**MINNESOTA**

Support

**MISSOURI**

Oppose

Nothing explains what is required to get an audit credit for a record review, what is considered education? How many records reviews equals an audit? How will this be monitored? Will the other jurisdictions be looking out for other States interests in a record review? Seems like a way to get out of doing actual audits.

**NEBRASKA**

Undecided

**FTPBP #2-2021**  
**First Comment Period Ending June 1, 2021**

While we support the records review process and the flexibility it affords jurisdictions in achieving their audit count, we have one concern.

A510 .400 states that completing a records review does not preclude the jurs. from conducting an audit on that specified period. While the very next sentence states the intent of a records review is to educate and should not be used to convert a records review to an audit due to poor records.

We would be more inclined to support the ballot with the withdrawal of A510.400. If a records review indicates poor records, the carrier should be given notice to correct their system. A later audit could be scheduled covering a different period.

We also noted the effective date of 1-1-21 - is that a typo?

**NEVADA**

Undecided

There are a few areas of concern. First, why list A240 in new section A510.100.005 is section A510.300 says otherwise? Second, if serious deficiencies are found, tax adjustments should occur ensure all taxes are being properly paid to all member jurisdictions. This carrier could require an audit to determine deficiencies and should occur sooner than later and not require a seperate engagement by jurisdiction. Third, we are not sure if up to 25% of audit count be allowed on these records reviews. That seems very high and could cause problems for jurisdictions who are using audit staff to complete these reviews to maintain the 3%.

If trying to seperate the records reviews from audits, the language should be written to allow reviews to be completed by non-audit staff only and only during first year. A better seperation is needed.

**NEW BRUNSWICK**

Oppose

New Brunswick does not feel that a records review provides the same level of protection as an audit.

**NEW HAMPSHIRE**

Undecided

New Hampshire would like clarification. If you perform three record reviews would it count towards any audit? It appears that is the intention. New Hampshire could support this if it was not applied to the required low mileage percent (15%) and required high mileage percent (25%) audits.

**NEWFOUNDLAND**

Support

**NORTH CAROLINA**

Oppose

North Carolina has significant concerns with substituting audits for a review of a taxpayer's system of record and internal controls. Although a jurisdiction may substitute three "Records Reviews" for one audit, North Carolina does not consider a "Records Review," as provided in the ballot, a reasonable substitute for an audit. This evaluation was based, in part, on the following characteristics of a "Records Review":

(1) The Review prohibits the review of IFTA records maintained by the licensee.

(2) Regardless of how inadequate a jurisdiction may find a licensee's system of record and internal controls, a Review may not be converted into an audit or result in a tax assessment. It further provides

**FTPBP #2-2021**  
**First Comment Period Ending June 1, 2021**

that the review "is not intended to find noncompliant Licensees for audit."

(3) Upon finding inadequate system of record and controls, a jurisdiction is only "strongly recommended that the base jurisdiction conduct a follow up contact with the Licensee . . . ."

**ONTARIO**

Support

ON strongly supports the concept of the proposal. It is taking a proactive stance by focusing on early education in a more modern approach to encourage early compliance rather than relying solely on post-activity audits. This is a balanced methodology ensuring that a substantial number of traditional audits are still a significant requirement but also considers the potentially limited or constrained resources affecting jurisdictions. We also question the retrospective effective date as noted by Kansas – if this was intentional, a prospective date is more practical for ease of application.

**QUEBEC**

Support

We agree with this ballot as long as it's on a voluntary basis. However, the question is how many visits to obtain one audit file ?

**SASKATCHEWAN**

Undecided

Would like to see some more rigger around books and records, what is required, oversight on records reviews for other jurisdictions, and what is expected of the record review. 25% is a high percentage to adjust audits by.

**SOUTH DAKOTA**

Support

South Dakota believes this will be a way for the IFTA team to work with new carriers to educate and verify that they are keeping adequet records. The 3 reviews per audit is a way for some jurisdictions to help with audit requirements. This also does not count toward any numbers for the high and low milage requirements. We strongly urge all jurisdictions to carefully consider how this review process could help them gain further compliance in the IFTA reporting.

**TEXAS**

Support

Texas believes that there should be a limit on the number of IFTA record reviews that would be allowed for credit for each State. Audits are the primary means of reallocating funds to the rightful States. A records review would not accomplish this and if too many record reviews are performed, some states may end up losing this revenue.

**WASHINGTON**

Support

Generally support; audit staff reviewing still and may provide comment second round.

**FTPBP #2-2021**  
**Second Comment Period Ending December 4, 2021**

Support: 8  
Oppose: 8  
Undecided: 1

**ALABAMA**

Support

**CALIFORNIA**

Support

**KANSAS**

Support

**KENTUCKY**

Oppose

Unsure how these would be counted and/or reviewed by other jurisdictions.

**MAINE**

Oppose

We do give the carrier many opportunities to learn from us the record keeping requirements. We do not perform record reviews for IRP and do not believe a record review for a tax return is appropriate and do not see this as auditing on behalf of all member jurisdictions.

It appears this ballot would allow a record review to be conducted on a carrier audited in the past.

**MANITOBA**

Support

**MISSOURI**

Oppose

Nothing explains what is required to get an audit credit for a record review, what is considered education? How many record reviews equal an audit? How will this be monitored?

**NEVADA**

Oppose

records review should be allowed to convert to audit and assessment. our job is to protect fuel tax revenue and if reveals underreporting of tax, the assessment must occur

**NEW BRUNSWICK**

Oppose

New Brunswick does not feel that a records review provides the same level of control as an audit. Records could be accurate but not properly utilized for filling. NB does an educational visit with every new account.

**NEWFOUNDLAND**

Oppose

In the opinion of NL, these reviews should be limited to new licensees for educational purposes, with other licensees subject to the normal audit process. Also, the existence of a review should not preclude the ability of a jurisdiction to raise an assessment when non-compliance is identified. Current legislation in NL requires the issuance of an assessment when it appears from an examination of books and records that a taxpayer has failed to pay tax due as required under the legislation.

**NORTH CAROLINA**

Oppose

North Carolina's opposition to this ballot remains steadfast. The changes made to the ballot reinforce North Carolina's concerns that this is not an effective means to ensure compliance with IFTA.

Substituting audits for a review of a taxpayer's system of record and internal controls is imprudent. Although a jurisdiction may substitute three "Records Reviews" for one audit, North Carolina does not consider a "Records Review," as provided in the ballot, a reasonable substitute for an audit. This evaluation was based, in part, on the following characteristics of a "Records Review":

(1) It is not clear whether a Review precludes a jurisdiction from reviewing return information to evaluate the system of record. The ballot language states that a Review "cannot compare records to a quarterly tax return to determine adjustments." Thus, can a Review use return data for other purposes, such as to evaluate the system of Record? Assessing the accuracy of the returns by using the records maintained by the Licensee can be valuable in effectively assessing the system of record.

(2) Regardless of how inadequate a jurisdiction may find a licensee's system of record and internal controls, a Review may not be converted into an audit or result in a tax assessment. Not only is a Review designed not "to find noncompliant Licensees for audit" but the ballot creates Licensees who are immune to an assessment for at least 180 days after completion of the review. This is a *dangerous* precedent and may result in return periods that *cannot be audited* because of the ever-ticking-clock of the statute of limitations.

(3) The ballot language fails to hold the jurisdiction accountable for finding deficiencies. Upon finding inadequate system of record and controls, a jurisdiction is only "strongly recommended that the base jurisdiction conduct a follow up contact with the Licensee . . ." By making a follow-up a "recommendation" instead of a requirement, the value of a "Records Review" decreases substantially in comparison to an audit.

(4) It is important to note that nothing in the ballot creates a clear distinction between a "Records Review" and a follow-up to a "Records Review." Therefore, nothing prevents a jurisdiction from 'double-dipping' by counting the follow-up review as a distinct, separate "Record Review." This potential strategy, again, further devaluates a Review.

(5) There is no reason to limit the scope of a Review as provided in the ballot. The new language provides that an audit "will be limited in scope to less than a full Reporting Period." This limitation is incomprehensible and is inconsistent with the scope of the evaluation established in A320, which is incorporated in the ballot. How is a jurisdiction to determine what fraction of a reporting period to use? How would the 180 day audit immunity period apply to a part of a reporting period? If a jurisdiction is allowed to use a quarterly tax return to evaluate the system of record, how is that possible if the review must be limited to less than a reporting period?

(6) The ballot states that "Reviews may be conducted by personnel processing Licensee applications . . ." This provision further devaluates Reviews as compared to audits. It is not reasonable to assume that

auditors and persons processing applications can equally and effectively evaluate internal controls of a complex system. There is no reason to believe that there is an existing overlapping skill set held by these groups of persons for evaluating a system of record. Documenting the existence of internal controls, reviewing and testing the reliability of the Licensee's internal controls, and identifying strengths and weaknesses in distance and fuel accounting systems are complex tasks. There is a high risk that the personnel processing Licensee applications cannot perform the same level of review that an auditor is capable of performing. Although significant training can reduce this capability gap, the risk remains.

**NORTH DAKOTA**

Support

**ONTARIO**

Support

**PENNSYLVANIA**

Support

**QUEBEC**

Support

**RHODE ISLAND**

Oppose

**SASKATCHEWAN**

Undecided

Would like to see more rigor around the books and records review in regard to oversight and what is required in order to count as a records review. 25% seems like a high amount to adjust audits by.

**IFTA FULL TRACK FINAL BALLOT PROPOSAL 2-2021  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
ALABAMA	1		1	
ALBERTA	1		1	
ARIZONA	1		1	
ARKANSAS	1		1	
BRITISH COLUMBIA	1		1	
CALIFORNIA	1		1	
<b>COLORADO</b>				
CONNECTICUT	1		1	
DELAWARE	1		1	
FLORIDA	1		1	
GEORGIA	1		1	
IDAHO	1		1	
ILLINOIS		1		1
INDIANA	1		1	
IOWA	1		1	
KANSAS	1		1	
KENTUCKY		1		1
LOUISIANA		1		1
MAINE		1		1
MANITOBA	1		1	
MARYLAND	1		1	
<b>MASSACHUSETTS</b>				
MICHIGAN		1		1
MINNESOTA	1		1	
MISSISSIPPI	1		1	
MISSOURI		1		1
MONTANA	1		1	
NEBRASKA	1		1	
NEVADA		1		1
NEW BRUNSWICK		1		1
NEW HAMPSHIRE	1		1	
NEW JERSEY		1		1
<b>NEW MEXICO</b>				
NEW YORK		1		1
NEWFOUNDLAND	1		1	
NORTH CAROLINA		1		1
NORTH DAKOTA	1		1	
NOVA SCOTIA	1		1	
OHIO	1		1	
OKLAHOMA		1		1
ONTARIO	1		1	
<b>OREGON</b>				
PENNSYLVANIA	1		1	
PRINCE EDWARD ISLAND	1		1	
QUEBEC	1		1	
RHODE ISLAND	1		1	
SASKATCHEWAN	1		1	



**IFTA FULL TRACK FINAL BALLOT PROPOSAL 2-2021  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
SOUTH CAROLINA	1		1	
SOUTH DAKOTA	1		1	
TENNESSEE	1		1	
TEXAS	1		1	
UTAH	1		1	
VERMONT	1		1	
VIRGINIA	1		1	
WASHINGTON	1		1	
WEST VIRGINIA		1		1
WISCONSIN	1		1	
WYOMING	1		1	
<b>TOTALS</b>	<b>41</b>	<b>13</b>	<b>41</b>	<b>13</b>

**Bold font in the voting total columns and shading indicate that the jurisdiction did not vote.**

**Failure to vote for the ballot language counts as a "No" vote.**

**Failure to vote for the alternative effective date counts as a "No" vote.**

**Number of "YES" votes necessary to pass: 44**

**Effective Date: Upon Passage**

**LANGUAGE:**

NUMBER OF "YES" VOTES RECEIVED: **41**

NUMBER OF "NO" VOTES RECEIVED: **13**

NUMBER OF VOTES NOT RECEIVED: **4**

**RESULT: FAILED**

**ALTERNATIVE EFFECTIVE DATE:**

NUMBER OF "YES" VOTES RECEIVED: **41**

NUMBER OF "NO" VOTES RECEIVED: **13**

NUMBER OF VOTES NOT RECEIVED: **4**

**RESULT: FAILED**

**Ballot Intent:**

This ballot is being submitted in consideration for changes to the IFTA Manual, to allow jurisdictions to receive an audit credit or partial audit credit for conducting an IFTA records review. The record review program would provide jurisdictions with an optional opportunity to obtain audit credits for being proactive in educating Licensees regarding program compliance. Record Reviews would allow jurisdictions to provide Licensees with the opportunity to adjust their reporting and recording systems to ensure compliance with the IFTA program agreement. In the long term, jurisdictions that choose to implement a record review program could also see a reduction in audit hours due to Licensees having records that are now in compliance with IFTA plan requirements. The record review program would provide benefit to the Licensee, Jurisdictions, and IFTA by achieving the goal of educating carriers to enhance and encourage compliance by reaching more carriers than by only conducting audits. The ballot proposal would allow Records Reviews conducted during the jurisdictions current review period to be counted and included in the audit count requirement.

**FOR VOTE BY MARCH 29, 2022**



**IFTA FULL TRACK PRELIMINARY BALLOT PROPOSAL  
#03-2021**

**Sponsor:**

Agreement Procedures Committee

**Date Submitted:**

April 9, 2021

**Proposed Effective Date:**

January 1, 2022

**Manual Sections to be Amended** (January 1996 Version, Effective July 1, 1998, as revised)

IFTA Articles of Agreement

R1600 -1660

**Subject:**

Modernize and streamline IFTA balloting procedures.

**History/Digest**

The balloting process currently has procedures for both a Short Track ballot process and Full Track ballot process, along with their submission procedures, discussion periods, timelines, amending processes, and acceptance procedures. In accordance with the goal of IFTA, Inc.'s Strategic Plan to modernize balloting procedures, the Board of Trustees charged the Agreement Procedures Committee (APC) with the responsibility of reviewing the existing ballot procedures and providing alternatives to improve the current process.

The APC formed a special subcommittee to comb over the Articles of Agreement, Section R1600. The subcommittee reached out to the IFTA Commissioners and Assistant Commissioners with a nine-question survey asking what they liked/disliked about the current ballot amendment process. The APC reviewed the language of R1600 through R1660. They researched the current steps and language to incorporate the membership's feedback into the suggested language to streamline the process. The APC developed possible streamlining steps and language alternatives that would make the amendment process simpler, quicker, and easier to administer. The APC submitted the suggested language and Charge response to the Board of Trustees.

The Board of Trustees responded with a second Board Charge to the APC to draft a ballot with the amendment suggestions.

**Intent**

The intent of this ballot is to fulfill the Board Charge to modernize the ballot process to make it simpler, faster, and easier while maintaining the tenets of the IFTA Agreement. To modernize and streamline the

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IFTA Full Track Preliminary Ballot Proposal

#03-2021

April 9, 2021

Page 1 of 11

ballot process it is recommended that this ballot be used to:

- Remove the Short Track Ballot process and Full Track terminology in favor of having one simple Ballot process
- Amend the comment periods from 45 days to 30-calendar days
- Amend the voting period from 60 days to 45-calendar days.
- Propose that amendments for comment be submitted to the repository in draft form at least 60-calendar days prior to a meeting of the member jurisdictions for a 30-calendar day preliminary comment period.
- Allow for voting to pass/fail at the Annual Business Meeting, in-person, or remotely within the allotted timeframe for all eligible jurisdictions.
  
- Implement suggested new Board of Trustees Preliminary Edit Process:
  - Allow any eligible member jurisdiction or Board of Trustee (Board) member or committee to suggest a non-substantive change and submit it to the repository for consideration as a minor edit bypassing the formal ballot process, allowing the Board of Trustees the ability to make minor changes to the Agreement, Procedures Manual and/or Audit Manual.
  - Allow the Board the authority to approve non-substantive changes, such as typos, references to incorrect sites, font, format, and grammatical corrections. in order to better streamline the amendment process and minimize the timeframe for making such edits.
  - The Repository will circulate the proposed change to all member jurisdictions and the standing committees for a 30-calendar day review period. If no written objections submitted in writing, the proposed edit advances to the Board of Trustees.
  - The repository will submit the suggested non-substantive change to the Board of Trustees within 30-calendar days of the quarterly board meeting for review and vote. Approved edits will require three-fourths approval from the Board of Trustees.

**Interlining Indicates Deletion; Underlining Indicates Addition**

1 \*R1600

2 **AMENDMENT**

3 Proposals for amendment and requests for non-substantive changes of the Agreement,  
4 Procedures Manual, or Audit Manual may be made by any member jurisdiction, the Audit  
5 Committee, the Agreement Procedures Committee, the Clearinghouse Advisory Committee, the  
6 Law Enforcement Committee, the Program Compliance Review Committee or the Board of  
7 Trustees of the Association.  
8

9 **R1605 SUBMISSION OF NON-SUBSTANTIVE CHANGES FOR BOARD REVIEW AND DECISION**

10  
11 .100 In accordance with subsection .200 of this section, non-substantive changes may be  
12 made to the Articles of Agreement, Procedures Manual, or Audit Manual without  
13 submitting the change as a ballot proposal. The changes must be non-substantive and  
14 cannot change the meaning of the document. The changes are limited to the following:  
15 amendments to fix a typographical error; amendments to the title, font, or format; and  
16 amendments to fix grammatical errors. Proposed changes that do not fall within the  
17 specified limits or meet the conditions provided in subsection .200 of this section must  
18 be submitted as a ballot proposal.

19  
20 .200 Non-substantive changes may be made in accordance with all of the following:

21 .005 A member jurisdiction or committee submits a proposed change to the repository.

22  
23 .010 The repository determines that the proposed change is non-substantive and does  
24 not change the meaning of the current language.

25  
26 .015 The repository circulates the proposed change to all member jurisdictions and  
27 the standing committees for a 30-calendar-day review period.

28  
29 .020 No jurisdiction or standing committee objects in writing to the proposed change  
30 within the 30-calendar-day review period.

31  
32 .025 After the 30-calendar-day review period, the proposed change receives three-  
33 fourths affirmative vote from the Board of Trustees.  
34  
35  
36  
37

38 **\*R1605R1610 SUBMISSION OF BALLOT PROPOSALS FOR COMMENT**

39  
40 .100 A proposed amendment is to be submitted to the ~~repository~~ repository at least  
41 60 calendar days before an open meeting of the commissioners. The  
42 repository will circulate the proposed amendment as a ~~Full Track Preliminary~~  
43 ~~Ballot Proposal ("Full Track proposal")~~ ballot proposal to all member  
44 jurisdictions and the standing committees of the Association for a ~~45-day~~ 30-  
45 calendar-day preliminary comment period.  
46

47 .200 At the end of the 30-calendar-day comment period, the ~~Full Track~~ ballot  
48 proposal ~~is to~~ must be submitted to the repository for consideration at the  
49 next open meeting of the ~~member jurisdictions~~ commissioners. The comment  
50 period must be ~~completed~~ completed, and notification given to the repository  
51 at least ~~45 days~~ 30 calendar days before the next open meeting of the  
52 ~~member jurisdictions~~ commissioners.

53  
54 **.300** The repository will notify the member jurisdictions of ~~Full Track ballot~~ proposals  
55 that have qualified for consideration at the next ~~open~~ meeting of the member  
56 jurisdictions and provide the text of the proposals and any comments received.  
57

#### 58 ~~R1610 SUBMISSION OF PROPOSALS WITHOUT PRELIMINARY COMMENT~~

59  
60 A proposed amendment may also be submitted to the repository for consideration as a  
61 Short Track Preliminary Ballot Proposal ("Short Track" Proposal). The preliminary  
62 comment period requirement may be waived if:

63  
64 ~~.100~~ A proposed amendment is submitted to the repository at least 45 days before  
65 the next meeting of the member jurisdictions for consideration at that meeting;  
66 and

67  
68 ~~.200~~ At the next meeting of the member jurisdictions, the proposed amendment  
69 receives the affirmative vote of at least three-fourths of the total member  
70 jurisdictions of the Agreement.  
71

#### 72 ~~R1615 OPEN MEETING DISCUSSION~~

73  
74 No amendment will be adopted without a discussion of the amendment at an open meeting  
75 of the commissioners. All Full Track and Short Track proposals will be discussed in  
76 An open meeting of the commissioners.  
77

#### 78 ~~R1620 "SHORT TRACK" VOTING~~

79  
80 ~~.100~~ In the open meeting, the sponsor may request the member jurisdictions to vote  
81 for or against placing a Full Track proposal on the Short Track ballot process  
82 described in IFTA Articles of Agreement Section R1625. An affirmative vote of at  
83 least three-fourths of the total member jurisdictions is required to place a ballot  
84 on the Short Track ballot process.

85  
86 ~~.200~~ In the open meeting, a vote must be made by the member jurisdictions for or  
87 against continuing each Short Track proposal on the Short Track ballot  
88 process described in IFTA Articles of Agreement Section R1625. An affirmative  
89 vote of at least three-fourths of the total member jurisdictions is required for  
90 continuation of a ballot on the Short Track ballot process.  
91

#### 92 ~~R1625 "SHORT TRACK" 30-DAY BALLOT PROCEDURES~~

93  
94 Proposals that receive the required three-fourths vote at the open meeting of the  
95 commissioners may proceed as follows:

96  
97 ~~.100~~ Within 30 days of the open meeting, the sponsoring jurisdiction or committee  
98 must submit its proposal to the repository for circulation as a preliminary ballot  
99 proposal.  
100

101 ~~.200~~ The repository will circulate the preliminary ballot proposal to the member  
102 jurisdictions and the standing committees of the Association for a 30-day  
103 comment period.  
104

105 ~~.300~~ At the end of the 30-day comment period, the preliminary ballot proposal is  
106 submitted to the repository as a final ballot proposal and circulated, together with  
107 all comments received, to the member jurisdictions. Jurisdictions have 30 days in

108 ~~which to vote on final ballot proposals submitted under this section.~~

109  
110 **R1615 BALLOT PROPOSAL REQUIREMENTS**

111  
112 Ballot proposals must contain the following:

113  
114 .100 The precise language to be considered;

115  
116 .200 If the ballot proposal is an amended ballot proposal:

117  
118 .005 the language originally contained in the previous ballot proposal; and

119  
120 .010 all comments received during the comment period;

121  
122 .300 If applicable, the date by which voting must be completed; and

123  
124 .400 The effective date of the amendment.

125  
126  
127  
128 **\*R1630-R1620 "FULL TRACK" BALLOT PROPOSAL PROCEDURES**

129  
130 .100 Full Track Ballot proposals must be discussed at an open meeting of the  
131 commissioners.

132  
133 .200 Ballot proposals may be voted on at the meeting and be adopted in accordance with  
134 IFTA Articles of Agreement Section R1630.

135  
136 .300 If a ballot proposal that ~~are~~is not voted on at the open meeting or ~~do~~does not receive  
137 the ~~three-fourths affirmative vote~~ affirmative votes required by IFTA Articles of  
138 Agreement Section R1630, the ballot ~~may still~~ proceed as follows:

139  
140 ~~.100.005~~ Within ~~45-30~~ calendar days of the open meeting, the sponsoring  
141 jurisdiction or committee must submit its ~~ballot~~ proposal to the repository for  
142 ~~circulation as a preliminary ballot proposal.~~ ~~30-calendar-day comment period.~~

143  
144 ~~.200.010~~ The repository ~~will~~must circulate the ~~preliminary~~ ballot proposal to the  
145 member jurisdictions and the standing committees of the Association for a ~~45-~~  
146 ~~day~~30-calendar-day comment period.

147  
148 ~~.300.015~~ At the end of the ~~45-day~~30-calendar-day comment period, the  
149 ~~preliminary ballot proposal is submitted~~ sponsoring jurisdiction or committees  
150 ~~must submit the ballot proposal to the repository as a final ballot proposal and~~  
151 ~~circulated, for circulation together with all comments received,~~ to the member  
152 jurisdictions. ~~Jurisdictions-Member jurisdictions~~ have ~~60 days in which~~45  
153 ~~calendar days~~ to vote on ~~final the~~ ballot ~~proposals~~ proposal submitted under this  
154 ~~sectionssubsection.~~

155  
156 **R1635 VOIDED "SHORT TRACK" PROPOSALS**

157  
158 ~~Short Track proposals that do not receive the three-fourths affirmative vote are void.~~  
159 ~~Sponsoring jurisdictions or committees may again submit the proposal through the process~~  
160 ~~outlined in IFTA Articles of Agreement Section R1605. However, the proposal is ineligible~~  
161 ~~for the expedited processes outlined in Sections R1610 or R1620.~~

163 ~~\*R1640-R1625~~ AMENDMENTS TO ~~PRELIMINARY BALLOTS~~BALLOT PROPOSALS  
164

165 A ~~preliminary~~ ballot proposal may be amended to incorporate comments received in  
166 ~~the a~~ comment period or to make technical or grammatical changes prior to circulation  
167 ~~as a final ballot proposal. for vote by the member jurisdictions .If the~~ changes made to  
168 ~~a preliminary~~the ballot proposal are substantive, ~~#the sponsoring jurisdiction or~~  
169 ~~committee~~ must ~~be resubmitted resubmit the as a new preliminary~~ ballot proposal for  
170 an additional ~~45-day~~30-day-calendar comment period. The sponsoring jurisdiction or  
171 committee has discretion to determine whether changes are substantive or non-  
172 substantive. However, if two or more jurisdictions indicate in writing to the repository  
173 that they consider a change substantive, it must be resubmitted for an additional ~~45-~~  
174 ~~day~~30-calendar-day comment period.

175  
176 ~~R1645-FINAL BALLOT PROPOSAL REQUIREMENTS~~  
177

178 Final Ballot proposals must contain the following:  
179

- ~~.100 The precise language to be considered;~~
- ~~.200 The language originally contained in the preliminary ballot proposal;~~
- ~~.300 All comments received during the comment period;~~
- ~~.400 The date by which voting must be completed; and~~
- ~~.500 The effective date of the amendment.~~

180  
181 ~~\*R1650-R1630~~ ACCEPTANCE OF AMENDMENTS, INTERPRETATIONS, AND ROLL CALL VOTES  
182

- ~~.100~~ Votes on amendments, ~~or~~ interpretations, or roll calls must be cast by the  
184 commissioner or a delegate named in writing by the commissioner.
- ~~.200~~ An affirmative vote in writing of three-fourths of the total eligible member jurisdictions is  
187 required to amend the Articles of Agreement, Procedures Manual, or Audit Manual. For  
188 purposes of this section, a vote submitted electronically through a mechanism provided  
189 by the International Fuel Tax Association, Inc. is deemed a vote in writing.
- ~~.300~~ ~~Jurisdictions~~Jurisdictions -Eligible member jurisdictions may abstain from voting, but a  
192 final ballot proposal may still not be adopted without the affirmative vote of three-  
193 fourths of the total eligible member jurisdictions.
- ~~.400~~ ~~Jurisdictions-Eligible member jurisdictions~~ that do not vote on an amendment within the  
196 required time limits are considered to have voted in the negative, except as provided in  
197 IFTA Articles of Agreement Section R165535.

198  
199 ~~\*R1655-R1635~~ EFFECTIVE DATE OF AMENDMENTS  
200

201 The effective date of all amendments, unless otherwise specified, is the first day of  
202 January or July, whichever occurs first, following the completion of 12 complete months  
203 following the close of the voting period. An alternate effective date may be allowed if it  
204 receives the support of three-fourths of the total eligible member jurisdictions. If an  
205 alternate effective date is requested, it must be voted separately from the amendment.  
206 ~~Jurisdictions-Eligible jurisdictions~~ that do not vote on an alternate effective date within  
207 the required time limits are considered to have voted in the negative.

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**~~R1660-R1640~~ WITHDRAWAL OF AMENDMENT PROPOSALS**

An amendment proposal may be withdrawn by the sponsoring jurisdiction or committee at any time during the amendment process.

**REVISIONS FOLLOWING 2<sup>nd</sup> COMMENT PERIOD**

**R1610.100- added “-“ between “30-calendar-day” for consistency**

**R1610.200- added “-“ between “30-calendar-day” for consistency**

**R1610.300- added “open” for consistency**

**R1630- updated title to match Ballot#1-2020 wording that comes into effect January 2022**

**R1630.100- updated wording to match Ballot#1-2020 wording that comes into effect January 2022**

**R1630.400- updated to reference Section R1635 due to the renumbering from this ballot**



# **Clean Copy of Ballot Proposal**

**\*R1600**

**AMENDMENT**

Proposals for amendment and requests for non-substantive changes of the Agreement, Procedures Manual, or Audit Manual may be made by any member jurisdiction, the Audit Committee, the Agreement Procedures Committee, the Clearinghouse Advisory Committee, the Law Enforcement Committee, the Program Compliance Review Committee or the Board of Trustees of the Association.

**R1605 SUBMISSION OF NON-SUBSTANTIVE CHANGES FOR BOARD REVIEW AND DECISION**

- .100** In accordance with subsection .200 of this section, non-substantive changes may be made to the Articles of Agreement, Procedures Manual, or Audit Manual without submitting the change as a ballot proposal. The changes must be non-substantive and cannot change the meaning of the document. The changes are limited to the following: amendments to fix a typographical error; amendments to the title, font, or format; and amendments to fix grammatical errors. Proposed changes that do not fall within the specified limits or meet the conditions provided in subsection .200 of this section must be submitted as a ballot proposal.
- .200** Non-substantive changes may be made in accordance with all of the following:

  - .005** A member jurisdiction or committee submits a proposed change to the repository.
  - .010** The repository determines that the proposed change is non-substantive and does not change the meaning of the current language.
  - .015** The repository circulates the proposed change to all member jurisdictions and the standing committees for a 30-calendar-day review period.
  - .020** No jurisdiction or standing committee objects in writing to the proposed change within the 30-calendar-day review period.
  - .025** After the 30-calendar-day review period, the proposed change receives three-fourths affirmative vote from the Board of Trustees.

**R1610 SUBMISSION OF BALLOT PROPOSALS FOR COMMENT**

- .100** A proposed amendment is to be submitted to the repository at least 60 calendar days before an open meeting of the commissioners. The repository will circulate the proposed amendment as a ballot proposal to all member jurisdictions and the standing committees of the Association for a 30-calendar-day comment period.
- .200** At the end of the 30-calendar-day comment period, the ballot proposal must be submitted to the repository for consideration at the next open meeting of the commissioners. The comment period must be completed, and notification given to the repository at least 30 calendar days before the next open meeting of the commissioners.
- .300** The repository will notify the member jurisdictions of ballot proposals that have qualified for consideration at the next open meeting of the member jurisdictions and provide the text of the proposals and any comments received.

## **R1615 BALLOT PROPOSAL REQUIREMENTS**

Ballot proposals must contain the following:

- .100** The precise language to be considered;
- .200** If the ballot proposal is an amended ballot proposal:
  - .005** the language originally contained in the previous ballot proposal; and
  - .010** all comments received during the comment period;
- .300** If applicable, the date by which voting must be completed; and
- .400** The effective date of the amendment.

## **\*R1620 BALLOT PROPOSAL PROCEDURES**

- .100** Ballot proposals must be discussed at an open meeting of the commissioners.
- .200** Ballot proposals may be voted on at the meeting and be adopted in accordance with IFTA Articles of Agreement Section R1630.
- .300** If a ballot proposal is not voted on at the open meeting or does not receive the affirmative votes required by IFTA Articles of Agreement Section R1630, the ballot may proceed as follows:
  - .005** Within 30 calendar days of the open meeting, the sponsoring jurisdiction or committee must submit its ballot proposal to the repository for a 30-calendar-day comment period.
  - .010** The repository must circulate the ballot proposal to the member jurisdictions and the standing committees of the Association for a 30-calendar-day comment period.
  - .015** At the end of the 30-calendar-day comment period, the sponsoring jurisdiction or committees must submit the ballot proposal to the repository for circulation to the member jurisdictions. Member jurisdictions have 45 calendar days to vote on the ballot proposal submitted under this subsection.

## **R1625 AMENDMENTS TO BALLOT PROPOSALS**

A ballot proposal may be amended to incorporate comments received in a comment period or to make technical or grammatical changes prior to circulation for vote by the member jurisdictions. If changes made to the ballot proposal are substantive, the sponsoring jurisdiction or committee must resubmit the ballot proposal for an additional 30-day-calendar comment period. The sponsoring jurisdiction or committee has discretion to determine whether changes are substantive or non-substantive. However, if two or more jurisdictions indicate in writing to the repository that they consider a change substantive, it must be resubmitted for an additional 30-calendar-day comment period.

## **R1630 ACCEPTANCE OF AMENDMENTS, INTERPRETATIONS, AND ROLL CALL VOTES**

- .100** Votes on amendments, interpretations, or roll calls must be cast by the commissioner or a delegate named in writing by the commissioner.
- .200** An affirmative vote in writing of three-fourths of the total eligible member jurisdictions is required to amend the Articles of Agreement, Procedures Manual, or Audit Manual. For purposes of this section, a vote submitted electronically through a mechanism provided by the International Fuel Tax Association, Inc. is deemed a vote in writing.
- .300** Jurisdictions may abstain from voting, but a final ballot proposal may still not be adopted without the affirmative vote of three-fourths of the total eligible member jurisdictions.
- .400** Eligible member jurisdictions that do not vote on an amendment within the required time limits are considered to have voted in the negative, except as provided in IFTA Articles of Agreement Section R1635.

## **R1635 EFFECTIVE DATE OF AMENDMENTS**

The effective date of all amendments, unless otherwise specified, is the first day of January or July, whichever occurs first, following the completion of 12 complete months following the close of the voting period. An alternate effective date may be allowed if it receives the support of three-fourths of the total eligible member jurisdictions. If an alternate effective date is requested, it must be voted separately from the amendment. Eligible jurisdictions that do not vote on an alternate effective date within the required time limits are considered to have voted in the negative.

## **R1640 WITHDRAWAL OF AMENDMENT PROPOSALS**

An amendment proposal may be withdrawn by the sponsoring jurisdiction or committee at any time during the amendment process.

**FTPBP #3-2021**  
**First Comment Period Ending June 1, 2021**

Support: 15  
Oppose: 3  
Undecided: 7

**ALABAMA**

Support

failure to vote should be counted as an abstension and not a "no" vote

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

Support stream lining the process for the ballot process

**IDAHO**

Support

**INDIANA**

Support

Indiana, in general, supports IFTA Ballot #3-2021; however, some language modification is requested.

- We recommend that days for the comment period, voting period, drafts, etc., listed throughout this proposed ballot for Agreement modifications should indicate business or calendar days. (IRP has used calendars; proposed amended sections - R1610; R1620; R1625; or where else relevant)

R1605. Although the term "minor edits" is used to provide for the Board of Trustees to make edits to Agreement, Procedures Manual and/or Audit Manual the determination of what may be a minor edit, could be a material edit (such as format and minor grammatical efforts). The provision should be restated as to what are the only or limited changed items that can be made by the repository. Edits should be limited only for typos, title, font, format, spelling errors, incorrect reference sections. The word "etc." should be removed due to broadness and undefined items. Any change in content outside of what is specifically set forth/approved to be changed would require membership approval. Otherwise, the term "minor edits" needs to be better defined

**Industry Advisory Committee**

The IFTA IAC has some concerns with this ballot. The current language explains what is considered a minor edits, but equally important, the ballot should do a better job at describing a substantial edit. Grammatical corrections could have unintended consequences in affecting the intent of the language of the Articles of Agreement. It should also be noted that this ballot does not fix the true issue with the ballot process and that is 100% participation in voting. There should be ramifications for a Jurisdiction not voting; full participation in voting is essential in getting thing done.

**KANSAS**

Support

**FTPBP #3-2021**  
**First Comment Period Ending June 1, 2021**

**KENTUCKY**

Support

**MAINE**

Oppose

Maine agrees with PEI's comments and makes the following suggestions. The first comment period should stay at 45 days. The longer comment period will allow jurisdictions to seek attorney input. No votes on amendments should be taken during the open meeting. The final ballot should be submitted to the repository x days after the close of the open meeting for vote regardless if a 2nd comment period is held. The vote on all ballots should start at the same time so the effective dates would be the same. This would streamline the updates to the guiding documents

**MANITOBA**

Support

**MARYLAND**

Undecided

Although Maryland appreciates the proposed streamlining to a single ballot process, we have concerns relative to the reduced number of days for additional actions.

**MICHIGAN**

Support

**MINNESOTA**

Support

**MISSOURI**

Support

**NEBRASKA**

Oppose

As written, Nebraska cannot support this ballot.

We do, however, support the idea of simplifying the ballot process by the elimination of the short track/full track system with a ballot process and shortening the time period for comments

Reading through the ballot we had lots of questions -

We understand the appeal of the Submission of Preliminary Edits for Board Review concept, but is still subjective and allows the repository to decide what is minor and what is not. We haven't yet run this by our legal team, but I cannot imagine them accepting that language.

It is not clear how the decision is made to vote on a ballot at the annual meeting and when not to? Who makes that decision? In general we are not in favor of ballots being voted on for passage at the annual meeting.

Our suggestion is to propose a simpler ballot that deals with the main two issues, elimination of the short track/full track process and shortening some of the time frames. Once that is implemented, then work on other changes if necessary.

**NEVADA**

Undecided

**NEW BRUNSWICK**

Support

**FTPBP #3-2021**  
**First Comment Period Ending June 1, 2021**

New Brunswick supports this ballot; however, we would recommend that section R1605 - 100 be separated into two sections, "Board of trustee" and "The membership".

**NEWFOUNDLAND**

Support

**NORTH CAROLINA**

Undecided

North Carolina has concerns regarding the potential for unintended consequences regarding "preliminary edits" to the Article of Agreement, Procedures Manual, or Audit Manual. These edits can include typos, title, font, format, minor grammatical edits, incorrect reference sections.

Edits to address typographical errors, changes to grammar, and changing section references, by their nature, have a high potential to change the meaning of what is written. In many instances "preliminary edits" would not be worth seeking or otherwise be desirable unless it made a requirement or process more clear. Implicit in a change for clarity is that a specific interpretation of a text is now more likely than another interpretation. Therefore, by design, these edits are vehicles to change the content of the document.

Further, making any changes to the Article of Agreement, Procedures Manual, or Audit Manual should be taken with great care and provide for sufficient review by all Jurisdictions. Although not completely alleviating all of North Carolina's concerns, we encourage the Agreement Procedures Committee to review the attached document, which provides sample language. The sample language replaces terms that provide minimal restrictions on what could be changed (e.g. the ballot's use of "etc." and the reference that the changes "should not change to content"), adds the ability for a jurisdiction to object to the change, and clarifies that a vote by the Board of Trustees must be unanimous.

North Carolina also shares the concerns raised by Prince Edward Island. Consistent usage of "three-fourths affirmative vote of the total eligible member jurisdictions" is needed to avoid any confusion. Also, consider revising the first sentence in R1635.100 -- it reads as though one can vote on roll calls.

**ONTARIO**

Undecided

ON has significant reservations with the elements beyond a straightforward consolidation and agree with the concerns also noted by several jurisdictions. It would be preferable and allow for greater clarity if the sponsors were to isolate the additional, expanded aspects and present as a separate ballot. While there is a definite benefit in eliminating the two ballot streams, the value with the extensive amendment provisions is questionable.

**PRINCE EDWARD ISLAND**

Undecided

R1615 lacks clarity that it is limited to Preliminary Ballot Proposals. It seems to allow the agreement to be changed based on 3/4ths of those in attendance at an "open meeting." That open meeting is not necessarily the annual meeting.

R1620 somewhat conflicts with R1615 in that R1615 allows for 3/4ths of those in attendance while R1620 refers to those that do not receive 3/4ths affirmative of total eligible member jurisdictions.

R1620.400 reads that ballots not receiving 3/4ths affirmative at the open meeting and not needing a second comment period will be voted on during the annual meeting. It is unclear who or how the decision of a second comment period is made – unless the R1615 vote is: proceed? yes/no; and if yes a second vote of: open to comments? yes/no.

**FTPBP #3-2021**  
**First Comment Period Ending June 1, 2021**

R1620.400 appears to suggest Final Ballot Proposals will be voted on during the annual meeting. That being the case it should be clarified that the 3/4ths affirmative votes are 3/4ths of all eligible jurisdictions, not just 3/4ths of those in attendance. It is also worth recognizing votes at annual meetings may have fewer "Commissioners" voting than votes done electronically as there are a number of Assistant Commissioners and delegates at the annual meeting.

**QUEBEC**  
Undecided

From a legal point of view; We agree with simplifying the voting process. As for the minor tweaks, we see that the list includes the "Titles". The title is one of the elements that make a law and can be used to interpret it when it is unclear. Thus, we can't endorse a change that allows the Board to change the headings as if they were minor change of the same nature as a grammatical error.

A typo error has slipped into the article R1610.200. The "to" following the addition of "will" should be removed.

**RHODE ISLAND**  
Oppose

**SASKATCHEWAN**  
Support

**SOUTH DAKOTA**  
Support

**WASHINGTON**  
Undecided