

Sunset Public Hearing Questions for
Tennessee Advisory Commission on Intergovernmental Relations
Created by Section 4-10-102, *Tennessee Code Annotated*
(Sunset Termination June 2021)

Enabling Statute, Purpose, and Rules and Regulations

1. Provide a brief introduction to the commission, including information about its purpose, statutory duties, staff, and administrative attachment.

The Tennessee Advisory Commission on Intergovernmental Relations' mission is to serve as a forum for the discussion and resolution of intergovernmental problems, provide high quality research support to state and local government officials in order to improve the overall quality of government in Tennessee, and to improve the effectiveness of the intergovernmental system in order to better serve the citizens of Tennessee.

The Commission was created in 1978, when the Tennessee General Assembly found and declared in TCA § 4-10-101, "that there is a need for a permanent intergovernmental body to study and report on:

- 1) The current pattern of local governmental structure and its viability;
- 2) The powers and functions of local governments, including their fiscal powers;
- 3) The existing, necessary and desirable relationships between and among local governments and the state;
- 4) The existing, necessary and desirable allocation of state and local fiscal resources;
- 5) The existing, necessary and desirable roles of the state as the creator of the local governmental systems;
- 6) The special problems in interstate areas facing their general local governments, intrastate regional units, and areawide bodies, such studies where possible to be conducted in conjunction with those of a pertinent sister state commission; and
- 7) Any constitutional amendments and statutory enactments required to implement appropriate commission recommendations."

Further, the Commission is directed by TCA § 4-10-104 to

- 1) serve as a forum for the discussion and resolution of intergovernmental problems;
- 2) engage in such activities and make such studies and investigations as are necessary or desirable in the accomplishment of the commission's mission and goals;
- 3) consider, on its own initiative, ways and means of fostering better relations among local governments and state government;
- 4) draft and disseminate legislative bills, constitutional amendments, and model ordinances necessary to implement recommendations of the commission;

- 5) encourage and where appropriate, coordinate studies relating to intergovernmental relations conducted by universities; state, local, and federal agencies and research and consulting organizations;
- 6) review the recommendations of national commissions studying federal, state, and local government relationships and problems, and assess their possible application to Tennessee;
- 7) study issues relating to changing federalism, including federal devolution, block grants, preemptions, mandates, and the Tenth Amendment to the Constitution of the United States;
- 8) study tax equivalent payments by municipally-owned electric operations to the various taxing jurisdictions within the state;
- 9) study laws relating to the assessment and taxation of property;
- 10) conduct an annual study of the fiscal capacity of local governments to fund education; and
- 11) conduct an annual infrastructure study.

The Commission has four recurring, legislatively-mandated projects:

- Tennessee's Annual Public Infrastructure Needs Inventory required by Public Chapter 817, Acts of 1996
- Tennessee's Growth Policy Act, monitoring implementation of Public Chapter 1101, Acts of 1998; Public Chapter 672, Acts of 2000; and Public Chapter 594, Acts of 2002
- Tennessee Valley Authority, monitoring the effect of wholesale power supply arrangements between TVA and municipal utilities and electric cooperatives on payments in lieu of taxes to the state and to its local governments, Public Chapter 1035, Acts of 2010
- Local Education Fiscal Capacity, producing one of two fiscal capacity models used to equalize each county's share of the total local funds required by the Basic Education Program formula as required by Public Chapter 535, Acts of 1992 and Public Chapter 1020, Acts of 2016

The work of the Commission is done by a staff of 14 full-time research staff members, including the executive director and deputy executive director, and five part-time research staff under the guidance of the 25 members.

The Commission has four full-time support staff members who handle its administrative duties, budget preparation, procurement, human resources, computer network, information systems, online and print publications, and website maintenance.

The Commission is not attached to any other agency but is supported by the executive branch's budgeting, accounting, procurement, personnel, and technology support systems.

2. Has the commission promulgated rules and regulations? If yes, please cite the reference.

No, the Commission does not promulgate rules or regulations.

Commission Organization

3. Provide a list of current members of the commission. For each member, please indicate who appointed the member, statutory member representation, the beginning and end of the member’s term, and whether the member is serving a consecutive term.

Member	Appointing Authority	Term	First (F) or Consecutive(C) Term
Legislative			
Sen. Jon Lundberg	Senate Speaker	1/2019-11/2020	F
Sen. Katrina Robinson	Senate Speaker	1/2019-11/2022	F
Sen. Ken Yager	Senate Speaker	1/2018-11/2020	F
Sen. Jeff Yarbrow	Senate Speaker	1/2019-11/2022	C
Rep. Mike Carter	House Speaker	1/2019-11/2020	C
Rep John Crawford	House Speaker	1/2019-11/2020	F
Rep. Harold Love Jr.	House Speaker	1/2019-11/2020	C
Rep. Antonio Parkinson	House Speaker	1/2019-11/2020	C
Sen. Bo Watson	Statutory (Chair FWM)		C
Rep. Susan Lynn	Statutory (Chair FWM)		F
Comptroller Justin Wilson	Statutory (Comptroller)		C
Executive Branch			
Paula Davis (ECD)	Governor	7/2016-6/2020	C
Sammie Arnold (ECD)	Governor	7/2019-6/2023	F
Private Citizens			
Calvin Clifton	Governor	3/2019-3/2023	F
Jeff Peach	Governor	3/2019-3/2023	F
County Members			
Mayor Rogers Anderson	House Speaker	12/2018-12/2022	F
Mayor Buddy Bradshaw	Senate Speaker	12/2018-9/2022	F
County Exec. Jeff Huffman	House Speaker	12/2018-12/2022	C
Mayor Larry Waters	House Speaker	3/2017-7/2020	C
Municipal Members			
Mayor Tom Bickers	Governor	5/2019-4/2023	C
Mayor Kevin Brooks	Governor	11/2018-11/2022	F
Mayor Jill Holland	Senate Speaker	8/2019-7/2023	F
Mayor Keith McDonald	Senate Speaker	8/2017-8/2021	F
County Officials Association of Tennessee			
County Clerk Mary Gaither	Governor	7/2019-6/2023	F
Tennessee Development District Association			
Mayor Brent Greer	House Speaker	10/2019-8/2023	C

4. Are there any vacancies on the commission? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.

Currently, there are no vacancies.

5. How many times did the commission meet in the last three fiscal years? How many members were present at each meeting? Please note meetings where the commission did not have a quorum.

July 1 2017-June 30 2018

August 2017	20 members present, 4 absent- Quorum
December 2017	18 members present, 6 absent -Quorum
January 2018	20 members present, 5 absent-Quorum
May 2018	18 members present, 7 absent -Quorum

July 1 2018-June 30 2019

September 2018	14 members present, 9 absent-Quorum
December 2018	19 members present, 1 absent -Quorum
January 2019	22 members present, 3 absent- Quorum
May 2019	20 members present, 3 absent-Quorum

July 1 2019-June 30 2020

September 2019	21 members present, 4 absent-Quorum
December 2019	19 members present, 5 absent-Quorum
January 2020	22 members present, 3 absent-Quorum
May 2020	Postponed because of pandemic; to be rescheduled

Financial Information

6. What were the commission’s revenues and expenditure for the last three fiscal years? Does the commission carry a reserve balance? If yes, please provide additional relevant information regarding the reserve balance.

The Commission’s revenues and expenditures for the last three fiscal years are as follows:

FY 17	
Expenditures:	
Personnel	\$1,929,837
Operational	\$879,724
Total	\$2,809,561

Revenues:	
State Appropriations	\$209,400
TVA	\$3,558,340
<u>Inter-Departmental</u>	<u>\$50,800</u>
Total	\$3,818,540

FY 18	
Expenditures:	
Personnel	\$1,972,328
<u>Operational</u>	<u>\$903,122</u>
Total	\$2,875,450

Revenues:	
State Appropriations	\$201,700
TVA	\$3,561,207
Inter-Departmental	\$50,800
<u>Dual Services Contract</u>	<u>2,611</u>
Total	\$3,816,318

FY 19	
Expenditures:	
Personnel	\$2,072,163
<u>Operational</u>	<u>\$912,108</u>
Total	\$2,984,271

Revenues:	
State Appropriations	\$196,700
TVA	\$3,748,682
Inter-departmental	\$50,800
<u>Dual Services Contract</u>	<u>\$2,657</u>
Total	\$3,998,839

Pursuant to TCA 4-10-107(e), funds provided to the commission in accordance with TCA 4-10-109 and 67-9-102 shall not revert to the general fund at the conclusion of a fiscal year, but such funds shall be carried forward. Our reserve fund is a combination of our TVA overcollection and our underspending. Our estimated reserve fund as of 6-30-20 is \$3,962,365. Our intent is to voluntarily revert \$2,000,000 of that to the general fund. We have made several such voluntary reversions over the last several budget cycles.

7. What per diem or travel reimbursements do commission members receive? How much was paid to commission members in the last three fiscal years?

Commission members attend four meetings per year, and non-legislative members are reimbursed for mileage, lodging, meals & incidentals, and parking.

FY19	\$14,570
FY18	\$11,597
FY17	\$9,075

Sunshine Law, Public Meetings, and Conflict of Interest Policies

8. Is the commission subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the commission have for informing the public of meetings and making minutes available to the public?

The Commission is subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes. The Commission informs the public of meetings by posting a meeting notice on its website. The Commission staff also hand delivers copies of the meeting notice to the Lieutenant Governor's office and the Speaker of the House's office. They also email meeting notices to development district offices and the Tennessee Municipal League. The Commission makes minutes available to the public by posting copies of the minutes on its website. Physical copies of the minutes are also available on request free of charge to the public. Video recordings of Commission meetings are available online for meetings going back to September 2008.

9. Does the commission allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the commission obtain feedback from the public?

As the Commission does not have a regulatory or rulemaking function, it does not generally provide for public comment during meetings. But the Commission does regularly hear from stakeholders, both public and private, serving on panels providing information to members on studied topics. Staff also extensively interviews public and private stakeholders as part of its research process. Other members of the public can and do provide feedback directly to the TACIR information email address or to individual commission members.

10. Does the commission have policies to address potential conflict of interest by commission members, employees, or other state employees who work with the commission?

Yes.

11. Does the commission have a website? If so, please provide the web address. What kind of public information is available on the website?

Yes, the Commission has a website—<https://www.tn.gov/tacir>. The following public information is available on the website:

- Commission meeting video and meeting material.

- An annual inventory of infrastructure needed in Tennessee and the associated costs are available along with one-page summaries for each county-area that lists the estimated cost for all types of infrastructure by stage of development.
- Numerous publications with respect to intergovernmental policy matters are available in the form of reports compiled by commission staff and presented to the commission for discussion and approval.
- A link to a TACIR partnered website created with MTSU to make available economic indicators for the state and its metropolitan statistical areas and counties.
- Weekly economic updates compiled by TACIR staff.
- Fiscal capacity for education information describing the TACIR model and results for each county, including trends over time and the factors that go into the model.
- Information concerning TACIR's monitoring of Tennessee's Growth Policy Act (PC 1101).
- TACIR's site also provides information and resources on
 - annexation,
 - county profiles,
 - county growth plans,
 - fiscal federalism, and
 - Tennessee Valley Authority payments in lieu of taxes.

Reports, Major Accomplishments, and Proposed Legislative Changes

12. Describe the nature and extent of the commission's activities and any major accomplishments during the last three fiscal years. Specifically, how have these activities and accomplishments addressed the commission's duties as expressed in Section 4-10-104, *Tennessee Code Annotated*.

Over the last three fiscal years, the Commission has completed several tasks related to the duties outlined in Tennessee Code Annotated, Section 4-10-104, and listed in question 1 above. The Commission conducted 13 member meetings and three subcommittee meetings; published 25 reports, the preparation of which included numerous reviews of other states' and federal initiatives related to the areas of study; updated annually the fiscal capacity for education formula, the public infrastructure needs inventory, and the study of Tennessee Valley Authority payments in lieu of taxes; assisted in the preparation of draft legislation; collaborated on research with Middle Tennessee State University, Tennessee State University, and Vanderbilt University (we have also collaborated on research with the University of Tennessee numerous times in the past); and provided or participated in several presentations on issues related to intergovernmental relations, to include separate testimony by the Commission's chairman and executive director to the US House of Representatives.

Detailed reviews of our accomplishments by fiscal year can be found in the attachments, as can a discussion of their effect on legislation by fiscal year, but a few significant accomplishments include our study which helped frame the conversation leading to passage of the state's law enacting sales taxation of internet purchases; our study that led

to several improvements in the state’s statutes of limitation on child sex abuse crimes; and our study that led to passage of a state law that helps to alleviate the problem of one local government abating the property taxes of another local government for long durations without agreement.

13. Section 4-10-108, *Tennessee Code Annotated*, requires the commission to issue a biennial report on its work and reports of its findings and recommendations as appropriate. Please provide a copy of or a link to the most recent biennial report.

https://www.tn.gov/content/dam/tn/tacir/2018-publications/2018_BiennialFY2016-18.pdf

14. Section 4-10-109, *Tennessee Code Annotated*, requires the commission to “annually compile and maintain an inventory of needed infrastructure within this state.” What form does this inventory take and how is the inventory made available to other entities within state government and to the public? What were some of the greatest shortcomings noted in the last two inventories and what, if any, recommendations did the commission make on how to address these needs?

The Public Infrastructure Needs Inventory is derived from surveys of local officials by staff of the state’s nine development districts; the capital budget requests submitted to the Governor by state officials as part of the annual budget process; needed capital projects from the Tennessee Board of Regents (TBR); and bridge and road needs from project listings provided by state transportation officials. Information collected from the survey forms and data provided by the state are entered into an online database, which is divided into the General Inventory (GI database) and the School Inventory (SI database). Data used for reports is exported from this online database and analyzed with Microsoft Excel spreadsheets. A limited number of the final reports are printed for distribution by the development district staff, and the inventory is made available through the TACIR website at <https://www.tn.gov/tacir/tacir-publications/publications-by-topic.html>. The purpose of the Public Infrastructure Needs Inventory is to provide information, rather than to make recommendations. The inventory is useful for

- short-term and long-range planning,
- providing a framework for funding decisions,
- increasing public awareness of infrastructure needs, and
- fostering better communication and collaboration among agencies and decision makers.

The most recent report was published in January 2020, and it includes projects in some stage of development during the five-year period July 2018 through June 2023. That inventory estimated that the cost of all needed public infrastructure improvements in Tennessee increased for the fourth straight year, even when adjusted for inflation and population. State and local officials report an increase of approximately \$4.8 billion (9.7%) in this year’s inventory, which brings the estimated cost of public infrastructure improvements that need to be in some stage of development between July 1, 2018, and

June 30, 2023, to \$54.8 billion. Improvements needed for the following categories continue to account for most of the total estimated cost of the inventory: Transportation and Utilities; Education; and Health, Safety, and Welfare. This year, the categories most responsible for the reported increase in total estimated cost are Transportation and Utilities, followed by Education. The percentage of available funding was unchanged from last year—more than two-thirds of the estimated cost of the needed improvements reported in this year’s inventory is not funded.

The prior inventory was published in February 2019, and it includes projects in some stage of development during the five-year period July 2017 through June 2022. That inventory estimated that the cost of all needed public infrastructure improvements in Tennessee and showed an increase for the third straight year. State and local officials reported an increase of approximately \$5.0 billion (11.1%) in the February 2019 inventory, which brought the estimated cost of public infrastructure improvements that needed to be in some stage of development between July 1, 2017, and June 30, 2022, to \$49.8 billion.

15. Section 4-10-110, *Tennessee Code Annotated*, requires the commission to “perform a study of the overall effect on local public education when property taxes or in lieu of tax payments earmarked for education are abated or reduced and whether the effect on local public education is offset by enhances economic development.” Has the commission completed such a study and, if so, what were the commission’s findings and recommendations and what legislation did the commission propose to address any findings?

Yes, the study resulted in a commission report, *Encouraging More Cooperation and Accountability in Payment in Lieu of Tax Agreements*, which was approved and published in January 2018. The report is available on the TACIR website at https://www.tn.gov/content/dam/tn/tacir/2018-publications/2018_PILOTAgreements.pdf. The report found that local governments are authorized to establish industrial development boards (IDBs) that hold and lease property to businesses. Because IDBs are considered extensions of local government, the properties they hold and lease for any of their authorized purposes are tax exempt, though local governments can authorize IDBs to negotiate and accept payments in lieu of tax (PILOTs) from the businesses that lease their properties. IDBs established by local governments—whether city, county, or both—that levy their own property taxes are not required to seek the approval of other governments affected by their PILOT agreements. Nor are they required to share with other affected tax jurisdictions any PILOTs made pursuant to their agreements. As a result, it is possible for IDBs established by some local governments in Tennessee to enter PILOT agreements that abate the property taxes of other local governments or special school districts without those tax jurisdictions’ consent.

The report recommends that “to ensure that economic development needs are being met without undermining the tax base of other city, county, or special school districts, the state should encourage local governments to pursue cooperative approaches before entering into

ad valorem PILOT agreements with private businesses. Existing approaches already available in state law include

- forming a joint IDB with representation of all separate taxing jurisdictions within the county, to include special school districts which have taxing authority, AND
- entering into interlocal agreements with other taxing jurisdictions to establish criteria for any PILOTs that might affect shared tax bases, AND
- receiving written approval from the city or county mayor, the city or county legislative body, and local special school districts before approval of PILOT agreements.

When entering into PILOT agreements for retail development, local governments should be required to take one of these three cooperative approaches for agreements longer than 10 years, or their IDBs should be required to make annual payments after the initial 10 years to the other affected local governments equal to the amount of property taxes those governments would otherwise receive for the affected property based on its assessed value. Further, the state may consider requiring that local governments receive PILOT payments for retail development at least equal to the portion of the revenue that would have otherwise gone to schools. These requirements would not apply to PILOT agreements affecting only the jurisdiction making the agreement.”

The report further recommends:

- “To improve transparency in the PILOT approval process without undermining the confidentiality needed to negotiate agreements, IDBs should be required to provide at least some public notice prior to their meetings, similar to what is already required for TIF hearings. Notice requirements should allow IDBs flexibility regarding both the information provided and the time between posting and when a meeting is held to ensure they remain workable within business recruitment processes that are highly competitive.
- Lessees with PILOT agreements should be required to include information about total investments made, number of jobs created, and taxes abated in their annual PILOT report to the Comptroller of the Treasury. To allow for greater accountability and transparency, the Comptroller’s Office has recently compiled a master list of all agreements and in the future plans to send a copy of the annual reports they receive from each company to the local property assessor’s office from that county so they can compare their reports.
- TACIR’s fiscal capacity calculation should be updated to include current IDB assessment amounts rather than the 1993-1995 PILOT payments data currently used. This would require a change in state law or a recommendation by the BEP Review Committee and approval by the General Assembly.” NOTE: A recent Attorney General opinion (Opinion No. 20-01) says, “Changes to the data sources in the Tennessee Advisory Commission on Intergovernmental Relations fiscal-capacity

model must be adopted by the State Board of Education and approved by the Commissioners of Education and Finance and Administration. Legislative approval is not required for such changes, nor is approval of the BEP Review Committee.”

16. Section 4-10-111, *Tennessee Code Annotated*, requires the commission to “perform a study of the creation and implementation of a system for the titling of boats in this state.” Can you provide information on the status of this report? If available, please provide a copy of or a link to this report.

https://www.tn.gov/content/dam/tn/tacir/2018-publications/2018_BoatTitling.pdf

17. Section 4-10-112, *Tennessee Code Annotated*, requires the commission to “continue to monitor, within existing resources, whether the current wholesale power supply arrangements between the Tennessee Valley Authority and municipal utilities and electric cooperatives are likely to change in the future in a way that could affect payments in lieu of taxes from the TVA to the state and to its local governments.” Reports were to be delivered annually to the appropriate committees no later than the last day of February. Please provide copies of or links to the most recent report.

https://www.tn.gov/content/dam/tn/tacir/2020publications/2020TVA_AnnualReport.pdf

18. Please describe any items related to the commission that require legislative attention and your proposed legislative changes.

Before the COVID-19 pandemic caused a disruption in the most recent legislative session, House leadership was working with the Commission to develop a new report referral process to help better ensure alignment between the desired areas of study by the General Assembly and TACIR’s statutory duties, and to help ensure that the volume of requested studies does not exceed the capacity of commission staff. House leadership was also working with Senate leadership to coordinate this process. Finalizing these changes to the report referral process would be beneficial.

Additionally, it would be helpful to remove from the Commission’s authorizing statute references to already completed studies, such as the study on boat titling.

19. Should the commission be continued? To what extent and in what ways would the absence of the commission affect the public health, safety, or welfare of the citizens of Tennessee?

Yes, without a doubt, the commission should be continued. Without the Commission, the citizens of Tennessee would lose an important forum and research capability that has helped address and resolve numerous complex policy issues. As detailed in our answer to question 12, the Commission, with support from the staff, in the last three years alone, has

researched and provided information and recommendations on multiple issues, leading to several initiatives by the General Assembly, the administration, and the state's local governments that have positively affected the public health, safety, and welfare of the people of Tennessee.

TACIR is the principal state agency committed to the study and deliberation of state and local government issues, and it serves as the primary formal venue in the state where all players in the state-local intergovernmental arena can meet in a neutral setting. The Commission's research process and its quarterly meetings provide a forum for other stakeholders—beyond just elected and appointed officials—to air their opinions and concerns. Even if their position is not adopted by the Commission, stakeholders generally see value in being able to state their position to government officials in a public forum.

20. Please identify the appropriate commission representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Executive Director Cliff Lippard, Administrative Director Michael Timme

21. Please identify the appropriate commission representative or representatives who will respond to the questions at the scheduled sunset hearing.

Executive Director Cliff Lippard

22. Please provide the office address, telephone number, and email address of the commission representative or representatives who will respond to the questions at the scheduled sunset hearing.

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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard *Cliff*
Executive Director

DATE: 3 May 2018

SUBJECT: Fiscal Year 2017-18 Accomplishments

The following list of the Commission's major accomplishments for fiscal year 2017-18 will be incorporated into the Commission's biennial report for fiscal years 2016-17 and 2017-18.

Published six official commission reports, further described below:

- ☞ *Tennessee's 911 System: Functionality and Funding Adequacy, August 2017*
- ☞ *Housing Tennessee's Convicted Felons: Improving Outcomes while Balancing State and County Needs, August 2017*
- ☞ *Tennessee Valley Authority's Payments in Lieu of Taxes--Annual Report to the Tennessee General Assembly, January 2018*
- ☞ *Encouraging More Cooperation and Accountability in Payment in Lieu of Tax Agreements, January 2018*
- ☞ *Protecting Boat Owners and Purchasers from Fraud--January 2018*
- ☞ *Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs, January 2018*

Responded to Studies Referred by the General Assembly:

- Completed a report on Tennessee's 911 system.

- The report responded to Public Chapter 795, Acts of 2014, which replaced the 911 funding system that relied on a combination of state and local fees to fund 911 services with a flat statewide fee of \$1.16 on all types of telecommunications services that connect to 911 and established a new method for distributing funds. The Act also directed the Commission to study nine questions addressing consolidation, Tennessee Emergency Communications Board (TECB) membership, telecommunications service providers' registration and service interruption reporting requirements, and funding. The report
 - recommended that the TECB should continue its education efforts on the potential benefits of emergency communication districts' (ECD) and public safety answering points (PSAPs) consolidation and continue to encourage ECD consolidation, when the local jurisdictions find it makes sense, through the reimbursement of associated costs;
 - noted that there is no consensus recommendation on changes to board membership;
 - said that state law already requires telecommunications service providers to register with the state, so an additional registration requirement is not necessary;
 - recommended that, because TECB would be able to better assist ECDs when interruptions occur if they knew about them sooner, telecommunications service providers should be required to notify the TECB when there are service disruptions;
 - noted that there is no compelling argument to replace the current flat fee on telecommunications services with another structure;
 - said it does not appear that the fee amount should be reduced;
 - recommended that the TECB could tie the distribution of any additional revenue generated by rate increases to a standard set of cost components. The cost components for providing a minimum standard of 911 services could be developed with input from the existing TECB operations and technical committees using minimum technical operating standards and should be reviewed regularly. The method would determine and distribute funding to ECDs, but ECDs would have flexibility with spending as long as they meet the minimum technical operating standards. This distribution method would only apply to excess revenue above the base amount generated by a rate increase.

- said there is no consensus that the TECB should have authority to raise rates without state legislative approval; and
- found that, because NG911 is not fully implemented yet in Tennessee, it is unclear whether statewide implementation has substantively affected the expenses of ECDs.
- A copy of the final report was sent to the chairs of the Joint Committee on Government Operations.
- Completed a report on payments in lieu of tax (PILOT) agreements.
 - The report responded to Public Chapter 431, Acts of 2017, which directed the Commission to study the economic benefits to counties and municipalities from the use of payment in lieu of ad valorem tax agreements and leases by industrial development corporations organized by municipalities, examine whether any economic benefits are derived from limiting the length of term of a PILOT agreement or lease to five or less years absent county approval or an agreement by the corporation or municipality to pay, each year after the initial five years, to the county a sum equal to the amount of real property tax that would have been assessed to a property if the agreement or lease had not been executed, and study any additional issues the Commission deemed relevant. The report recommended that the state should encourage local governments to pursue one of the following cooperative approaches before entering into ad valorem PILOT agreements with private businesses. Existing approaches already available in state law include
 - forming a joint IDB with representation of all separate taxing jurisdictions within the county, to include special school districts, which have taxing authority, and
 - entering into interlocal agreements with other taxing jurisdictions to establish criteria for any PILOTs that might affect shared tax bases, and
 - receiving written approval from the city or county mayor, the city or county legislative body, and local special school districts before approval of PILOT agreements.
 - The report noted that, when entering into PILOT agreements for retail development, local governments should be required to take one of these three cooperative approaches for agreements longer than 10 years, either they or their IDBs should be required to make annual payments after the initial 10 years to the other affected local governments equal to the amount of property taxes those

governments would otherwise receive for the affected property based on its assessed value. The report recommended that, to improve transparency in the PILOT approval process without undermining the confidentiality needed to negotiate agreements, IDBs should specifically be required to provide public notice prior to their meetings, similar to what is already required for TIF hearings. Notice requirements should allow IDBs flexibility regarding both the information provided and the time between posting and when a meeting is held to ensure they remain workable with business recruitment processes that are highly competitive. The report also recommended that lessees with PILOT agreements should be required to include information about total investments made, number of jobs created, and taxes abated in their annual PILOT report to the Comptroller of the Treasury. To allow for greater accountability and transparency, the Comptroller's Office has recently compiled a master list of all agreements and in the future plans to send a copy of the annual reports they receive from each company to the local property assessor's office from that county so they can compare their reports. The report recommended that TACIR's fiscal capacity calculation should be updated to include current IDB assessment amounts rather than the 1993-1995 PILOT payments data currently used. This would require a change in state law or a recommendation by the Basic Education Program Review Committee and approval by the General Assembly.

- A copy of the final report was sent to the chairs of the Senate State and Local Government Committee and the House Local Government Committee.
- Completed a report the creation and implementation of a boat titling system in Tennessee.
 - The report responded to Public Chapter 179, Acts of 2017, directing the Commission to study the creation and implementation of a boat titling system in Tennessee. The report recommended that Tennessee should implement a boat titling system for motorized and sail-powered boats that are either larger or likely to be more powerful. Tennessee could consider limiting titling both to boats that have a permanently attached engine and to boats that are at least 20 feet long, excluding human-powered watercraft. To avoid the significant administrative burdens that would occur if titling requirements were applied retroactively to all existing boats, Tennessee should also consider phasing in any new titling system by limiting it either to boats manufactured at least one year after the law's effective date or to boats sold or transferred at least one year after the law's effective date. The report noted that, because of the lack of consensus

regarding how a potential boat titling system should be administered in Tennessee, the Tennessee Wildlife Resources Agency, county clerks, and the Department of Revenue should work together to determine an effective and agreed upon way to administer boat titling in the state. The group was asked to report back to the Commission in December 2018. The report also said that Tennessee should provide consumers with greater protection from frauds perpetrated by unscrupulous boat dealers and prevent those individuals from becoming dealers by requiring boat dealers to meet minimum licensing requirements similar to motor vehicle and RV dealers, including background checks and surety bonds.

- A copy of the final report was sent to both speakers.

Published one report requested by the Commission:

- Completed a report on the financial burden and other effects on county governments from housing state prisoners in county jails.
 - The report responded to a request by the Commission to revisit its 2007 report: *Beyond Capacity: Issues and Challenges Facing County Jails*, which expanded on and updated information in earlier reports published by the Tennessee Comptroller's Office of Research and the Tennessee County Services Association. Staff was directed to determine whether the state, by housing convicted state prisoners in county jails for extended periods as part of the effort to reduce overcrowding in state prisons, placed an undue burden on county governments. The report noted that, although the state increased its reimbursement rate from \$37 to \$39 per prisoner per day on July 1, 2017, local officials were concerned that the amount is still inadequate. According to information provided by the Tennessee Department of Correction's staff, the average cost for counties housing state prisoners is between \$43 and \$45 per prisoner per day. The report recommended that, to improve access to the behavioral health services already provided by the Department of Mental Health and Substance Abuse Services' criminal justice liaison program, the state should provide funding to expand the program statewide. The report recommended that, in addition to existing initiatives, if the state's policy is to continue to rely on county jails to house large numbers of state prisoners, it should establish an incentive program to encourage counties to add needed services, rather than simply relying on increases to per diem reimbursements. Funding assistance beyond the daily reimbursement rate could be offered to help counties implement programs proven to reduce recidivism and improve outcomes for prisoners and communities. The report noted that, to

clarify the framework for the oversight of county jails, state law should be amended to give the Tennessee Corrections Institute clear legal authority to require local correctional facilities to comply with set standards, including authority for its Board of Control to recommend that the Tennessee Department of Correction remove state prisoners from noncertified jails when conditions warrant.

- A copy of the final report was sent to both speakers.

Published one staff project:

- 📖 *Growth Policy, Annexation, and Incorporation Under PC 1101 of 1998: A Guide for Community Leaders*—Staff Report, December 2017. Staff, with input from the County Technical Assistance Service and the Municipal Technical Advisory Service, updated the guide to reflect the significant changes to the state’s growth planning and annexation laws caused by the passage of Public Chapter 707, Acts of 2014.

Provided two presentations:

“Federalism through the lens of finance: Dynamics between cities, states, and the federal government” at Governing Magazine’s Summit on Financial Leadership (September 2017)

“Tennessee Advisory Commission on Intergovernmental Relations and Tennessee Joint Economic Community Development Boards” to the US Department of Housing and Urban Development’s Annual Tennessee Directors’ Meeting (September 7, 2017)

Participated in two panel discussions:

“Broadband Internet Expansion” as part of the Organization, Presentation, Evaluation, Navigation event series for the Cheatham County Democratic Party, panelist (February 8, 2018)

“The Shifting Dynamics of State-Local Relations” to the American Society of Public Administration’s National Conference, panelist (March 9, 2018)

Served on two task forces:

Broadband Adoption Working Group, as part of the Tennessee Economic and Community Development’s Rural Task Force

Tennessee's H₂O: Technical Working Group; Legal Framework Working Group, and liaison between the Technical Working Group and the Infrastructure Working Group

Responded to Requests for Information:

- Responded to requests for information and assistance from members of the General Assembly and legislative committees.
- Responded to requests for information and assistance from local government officials, state agencies, lobbyists, the public, and the media.

Administered ten contracts:

- Nine development districts—support the public infrastructure needs inventory
- Middle Tennessee State University—economic indicators website

Accomplishments by Policy Area

Fiscal and Tax Policy Research:

- Continued to monitor and published a report on the Tennessee Valley Authority's payments in lieu of taxes and the effect of the Electric Generation and Transmission Cooperative Act of 2009 as amended in 2010 (Public Chapter 1035, Acts of 2010).
- Completed Commission's report to the legislature on Public Chapter 431, Acts of 2017, which directed the Commission to study the economic benefits to counties and municipalities from the use of payment in lieu of ad valorem tax agreements and leases by industrial development corporations organized by municipalities, examine whether any economic benefits are derived from limiting the length of term of a payment in lieu of ad valorem tax agreement or lease to five or less years absent county approval or an agreement by the corporation or municipality to pay, each year after the initial five years, to the county a sum equal to the amount of real property tax that would have been assessed to a property if the agreement or lease had not been executed, and study any additional issues the Commission deemed relevant.

Education Finance:

- Completed the fiscal year 2018-19 fiscal capacity model.

Land Use, Transportation, and Growth Policy:

- Continued to monitor implementation of Public Chapter 1101, Acts of 1998, Tennessee’s growth policy law.
- Updated the document “Growth Policy, Annexation, and Incorporation Under PC 1101 of 1998: A Guide for Community Leaders.”

Infrastructure

- Continued the annual public infrastructure needs inventory. Collected information from 141 school systems, 95 counties, 345 municipalities, and 439 other entities.
- Completed Commission’s annual report to the legislature on Tennessee’s public infrastructure needs.

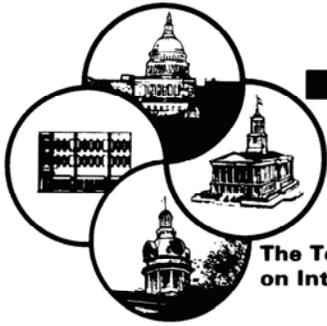
Other Research

- Completed Commission’ report to the legislature on Public Chapter 795, Acts of 2014, which replaced the 911 funding system that relied on a combination of state and local fees to fund 911 services with a flat statewide fee of \$1.16 on all types of telecommunications services that connect to 911 and established a new method for distributing funds. The Act also directed the Commission to study nine questions addressing consolidation, Tennessee Emergency Communications Board membership, provider’s registration and service interruption reporting requirements, and funding.
- Completed the Commission’s report on the financial burden and other effect on county governments from housing state prisoners in county jails, which was prepared in response to concerns brought by commission members.
- Completed the Commission’s report studying the creation and implementation of a boat titling system in Tennessee pursuant to Public Chapter 179, Acts of 2017.
- Monitored intergovernmental tax, fiscal, and education legislation.

Using Technology for Public Information

- Disseminated all reports electronically and maintained detailed focus section about continuing research on TACIR’s web page (<https://www.tn.gov/tacir/tacir-publications.html>).
- Further disseminated information from the annual public infrastructure needs inventory through a partnership with the University of Tennessee to include the data on their state data explorer website (<http://ctasdata.utk.tennessee.edu/statedashboard2/>).

- Began adding GPS coordinates to the infrastructure inventory
- Continued to update and enhance the profiles of Tennessee's counties, providing easy public access to detailed demographic, financial, and other information for each (<https://www.tn.gov/tacir/tennessee-county-profiles-redirect.html>).
- Published timely information Tracking Tennessee's Economy in partnership with Middle Tennessee State University <http://capone.mtsu.edu/berc/tacir/tacir.html>).
- Posted timely information to the agency's Facebook page notifying the public of new reports, elaborating on topics of interest, and pointing out relevant research by other organizations (<https://www.facebook.com/TN.ACIR>).
- Added fiscal federalism information page for the TACIR website (<https://www.tn.gov/tacir/fiscal-federalism.html>).
- Added Tennessee Valley Authority Payments in Lieu of Taxes pages for the TACIR website (<https://www.tn.gov/tacir/tva-pilots.html>).
- Transitioned to the new state's website in December 2017 (<https://www.tn.gov/tacir/>).
- Increased functionality of the agency's website with addition of tableau maps and data tables for fiscal capacity, infrastructure, and county profile features. (<https://www.tn.gov/tacir/>).



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard *Cliff*
Executive Director

DATE: 29 May 2019

SUBJECT: Fiscal Year 2018-19 Accomplishments

The following list of the Commission's major accomplishments for fiscal year 2018-19 will be incorporated into the Commission's biennial report for fiscal years 2018-19 and 2019-20.

Published seven official commission reports, further described below:

- ▣ *Intergovernmental Challenges and Achievements—Biennial Report Fiscal Years 2016-17 and 2017-18, September 2018*
- ▣ *Refining Tennessee's Criminal Statutes of Limitations, December 2018*
- ▣ *Access to Affordable Healthy Food, January 2019*
- ▣ *Improving Management of Government-Owned Real Property in Tennessee, January 2019*
- ▣ *Tennessee Valley Authority's Payments in Lieu of Taxes—Annual Report to the General Assembly, February 2019*
- ▣ *Leveling the Playing Field: Internet Sales Tax in Tennessee, February 2019*
- ▣ *Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs, February 2019*

Responded to studies referred by the General Assembly:

- Completed a report on Tennessee's criminal statutes of limitations.

- The report responded to Public Chapter 849, Acts of 2018, which directed the Commission to perform a study on the effectiveness of statutes of limitation on the prosecution of criminal offenses. The Act directed that the study include, but not be limited to, information on the statutes of limitation on the prosecution of sexual offenses. The report recommended that
 - at a minimum, Tennessee law should be amended to clarify a drafting error found at Tennessee Code Annotated, Section 40-2-101(h)(2) and (i)(2), which has the unintentional effect of shortening the statute of limitation for child rape and aggravated child rape offenses if the victim does not report the crime within three years of the offense;
 - Tennessee should fully eliminate the statute of limitation for Class A and B felony child sexual abuse crimes and consider extending or eliminating the statute of limitation for other child sexual abuse crimes; and that
 - the state may want to consider either extending or eliminating the statute of limitation for second degree murder.
- A copy of the final report was sent to both Speakers and the members of the General Assembly.
- Completed a report on access to affordable healthy food.
 - The report responded to Public Chapter 795, Acts of 2018, which directed the Commission to study the benefits and costs of creating a special reserve fund in the state treasury for the sole use of funding grants and loans to encourage the financing and development of supermarkets, grocery stores, and farmers markets in food deserts, whose residents tend to have a less nutritious diet and poorer health outcomes than those living in other communities.
 - The report recommended that state efforts should focus on leveraging the variety of public and private resources that are already available to assist communities in crafting solutions tailored to local needs. While a state program may not be necessary, if Tennessee were to adopt such a program, the state should
 - structure it as a public-private partnership with one or more community development financial institutions, or similar entities, to take advantage of existing federal programs and to maximize the private investment, and
 - incorporate consumer education and outreach into the program.

- A copy of the final report was sent to the chairs of the Senate State and Local Government Committee, the House State Government Committee, and the House Local Government Committee.
- Completed a report on governmental property in Tennessee.
 - The report responded to Public Chapter 693, Acts of 2018, which directed that the study determine the amounts of non-tax producing properties held by state and local governments, as well as recommendations about the highest and best uses of the properties and ways for making the properties productive. The report recommended that
 - the state could require all state agencies to submit property use information, along with annual real property plans for future use, to the Department of General Services State of Tennessee Real Estate Management division (STREAM), and could make the reporting of property use and real estate plans a part of each agency's budget process, as a prerequisite for departmental budget approval;
 - to supplement the reporting process described above and to encourage the state-owned properties be put to their highest and best use, Tennessee could require that any state-owned properties that for 10 years are both unused and have no planned, future use reported to STREAM, regardless of how they were acquired, be either (1) offered back to their prior owners or (2) evaluated for sale as surplus;
 - the state could require the Tennessee Department of Transportation (TDOT) to report its right-of-way (ROW) property to STREAM, which would require TDOT to first complete an inventory of all of its ROW property and determine which properties are needed and which are not;
 - to facilitate identification and disposal of unneeded ROW property in Tennessee, TDOT could both actively market its surplus ROW property for sale and work with STREAM to integrate surplus TDOT properties with the overall surplus property strategy for the state;
 - the state could require that geographic information systems tools be integrated with the STREAM inventory of state-owned property to provide for more robust analysis and help promote the highest and best use of the state's real estate assets;

- the state could list the complete inventory of state-owned real property online;
 - the state could assist local government with management of real property—as suggested in the Commission’s 2012 report *Dealing with Blight: Strategies for Tennessee’s Communities*—by providing legal authority allowing any city or county to establish a land bank;
 - the state could help local governments reach a wider audience of potential buyers by allowing local governments to post links to their surplus real properties—including tax-delinquent properties—on the same state website where STREAM advertises the state’s surplus real property;
 - STREAM be required to send local officials notice of available state-owned properties in their jurisdictions before offering surplus properties to the public for sale; and that
 - the state could offer additional training to county and city officials on best practices for real property management to promote the highest and best use of real property owned by local governments.
- A copy of the final report was sent to both Speakers; chairs of the Senate Finance, Ways and Means Committee and the House Finance, Ways and Means Committee; and the budget analysis directors for the Senate and the House.
- Completed a report on internet sales tax in Tennessee.
 - The report responded to a request by the House Finance, Ways and Means Committee in April 2018. During its discussion of House Bill 971 by Representative Sargent, Senate Bill 1075 by Senator Watson, the committee asked the Commission to study the revenue sources of cities and counties in Tennessee and the services cities and counties provide. A working group of the Commission’s local members suggested the study initially focus on internet sales tax collection and distribution. This decision was made in light of the *South Dakota v. Wayfair* case, which overturned the Supreme Court’s rule that prohibited states from requiring out-of-state sellers to collect sales tax if they had no physical presence in the state, and on provisions of Tennessee law, set to become effective July 1, 2019, relating to the Streamlined Sales and Use Tax Agreement. The report made several recommendations:

- Because it would eliminate an unfair tax advantage for some out-of-state sellers, wouldn't apply retroactively, and includes a safe harbor for those who transact only limited business in the state, the General Assembly should allow the Department of Revenue to enforce Rule 129, which would require out-of-state sellers with no physical presence in the state with sales of more than \$500,000 in Tennessee to collect and remit sales tax. In the future, the state should consider lowering this threshold.
 - Streamlining provisions changing Tennessee from origin-based to destination-based sourcing for intrastate sales should not be allowed to take effect. To avoid complicating sales tax collection for in-state sellers and to avoid shifting revenue away from jurisdictions where infrastructure investments have already been made to support retail locations, Tennessee should continue to distribute local option sales tax revenue from intrastate sales to the jurisdiction where the sale originated, not to its delivery destination.
 - Streamlining provisions limiting the single-article cap to motor vehicles, aircraft, watercraft, modular homes, manufactured homes, and mobile homes should not be allowed to take effect, and Tennessee should retain its single article sales tax cap for all sales.
 - The state could continue to offer sellers the option of paying the destination rate or the uniform rate, but in either case, distribution of the revenue should be based on the destination of the sales. The state may also want to increase the uniform rate to the maximum.
 - Because of the streamlining provisions that are already in effect, it is unlikely that any of these provisions would be necessary for the state to withstand a constitutional challenge, if it allows Rule 129 to go into effect, based on the Court's decision in Wayfair. And unlike the provisions discussed above that affect sourcing for in-state deliveries, limit the single article cap, and eliminate the uniform rate option for out-of-state sellers, the Commission takes no position on whether these other provisions should become effective.
- A copy of the final report was sent to both Speakers and members of the General Assembly.

Published one report update:

- *Tennessee's Election Security: A Staff Update*, December 2018. Responding to a request from Senator Frank Niceley, the 2007 staff report *Trust but Verify: Increasing Voter Confidence in Election Results*, which examined election security in Tennessee was updated. Senator Nicely asked that the report address two specific topics: (1) the most cost-effective and efficient voter-verified paper audit trail (VVPAT) options for Tennessee counties, and (2) opportunities to offset VVPAT costs with the use of secure electronic transfer, a system used by 35 states to ensure that data from all agencies is available to verify the accuracy of voter rolls.
 - In 2007, staff recommended that Tennessee
 - implement voter-verified paper audit trails statewide within a reasonable time;
 - adopt VVPAT that can be counted by hand, as well as by machine— machine tallies to support prompt reporting of results with hand counting for audit and recount purposes; and
 - adopt a standard for VVPAT that would meet federal guidelines then under consideration.

TACIR staff continues to support these recommendations. Further, staff would encourage county election officials not wanting to replace their current non-VVPAT machines to consider adding printers, when they are available, to those machines to make them VVPAT capable. And rather than relying on paper voter registration applications, although the cost savings are not clear, staff encourages the state to continue implementing electronic voter registration processes, making it easier to register, improving accuracy of voter rolls, and potentially saving money.

Provided two presentations:

- “Regional Collaboration: What Works? An Exploration of Mandated and Voluntary Collaboration Among Tennessee Local Governments” at the Southeastern Conference of Public Administration (September 2018)
- “Institutional Integrity” at the State of Tennessee Boards and Commissions Academy (March 2019)

Participated in one panel discussion:

- “Tennessee’s Court Fees and Taxes: Funding the Courts Fairly” to the panel on Legal Financial Obligations hosted by the Tennessee Advisory Committee to the United States Commission on Civil Rights (March 2019)

Served on one task force:

- Tennessee’s H₂O: Technical Working Group; Legal Framework Working Group, and liaison between the Technical Working Group and the Infrastructure Working Group

Responded to requests for information:

- Responded to requests for information and assistance from members of the General Assembly and legislative committees.
- Responded to requests for information and assistance from local government officials, state agencies, lobbyists, the public, and the media.

Administered ten contracts:

- Nine development districts—support the public infrastructure needs inventory
- Middle Tennessee State University—economic indicators website

Accomplishments by policy area:**Fiscal and Tax Policy Research:**

- Continued to monitor and published a report on the Tennessee Valley Authority’s payments in lieu of taxes and the effect of the Electric Generation and Transmission Cooperative Act of 2009 as amended in 2010 (Public Chapter 1035, Acts of 2010).
- Completed the Commission’s report to the legislature on internet sales tax in Tennessee. The report responded to a request by the House Finance, Ways and Means Committee in April 2018. During its discussion of House Bill 971 by Representative Sargent, Senate Bill 1075 by Senator Watson, the committee asked the Commission to study the revenue sources of cities and counties in Tennessee and the services cities and counties provide. A working group of the Commission’s local members suggested the study initially focus on internet sales tax collection and distribution. This decision was made in light of the South Dakota V. Wayfair case, which overturned the Supreme Court’s rule that prohibited states from requiring out-of-state sellers to collect sales tax if they had

no physical presence in the state, and on provisions of Tennessee law, set to become effective July 1, 2019, relating to the Streamlined Sales and Use Tax Agreement.

Education Finance:

- Completed the fiscal year 2019-20 fiscal capacity model.

Land Use, Transportation, and Growth Policy:

- Continued to monitor implementation of Public Chapter 1101, Acts of 1998, Tennessee’s growth policy law.

Infrastructure:

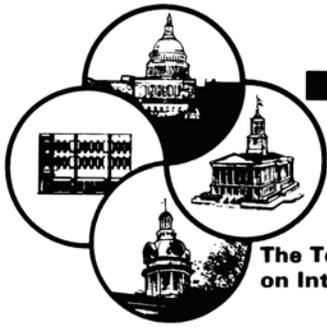
- Continued the annual public infrastructure needs inventory. Collected information from 141 school systems, 95 counties, 345 municipalities, and 461 other entities.
- Completed Commission’s annual report to the legislature on Tennessee’s public infrastructure needs.

Other Research:

- Completed the Commission’s report to the legislature on Public Chapter 849, Acts of 2018, which directed the Commission to perform a study on the effectiveness of statutes of limitation on the prosecution of criminal offenses. The Act directed that the study include, but not be limited to, information on the statutes of limitation on the prosecution of sexual offenses.
- Completed the Commission’s report to the legislature on Public Chapter 795, Acts of 2018, which directed the Commission to study the benefits and costs of creating a special reserve fund in the state treasury for the sole use of funding grants and loans to encourage the financing and development of supermarkets, grocery stores, and farmers markets in food deserts, whose residents tend to have a less nutritious diet and poorer health outcomes than those living in other communities
- Completed the Commission’s report to the legislature on Public Chapter 693, Acts of 2018, which directed that the study determine the amounts of non-tax producing properties held by state and local governments, as well as recommendations about the highest and best uses of the properties and ways for making the properties productive.
- Monitored intergovernmental tax, fiscal, and education legislation.

Using Technology for Public Information:

- Disseminated all reports electronically and maintained detailed focus section about continuing research on TACIR's web page (<https://www.tn.gov/tacir/tacir-publications/publications-by-date.html>)
- Further disseminated information from the annual public infrastructure needs inventory through a partnership with the University of Tennessee to include the data on their state data explorer website (<http://ctasdata.utk.tennessee.edu/statedashboard2/>).
- Continued to update and enhance the profiles of Tennessee's counties, providing easy public access to detailed demographic, financial, and other information for each (<https://www.tn.gov/tacir/tennessee-county-profiles-redirect.html>)
- Published timely information Tracking Tennessee's Economy in partnership with Middle Tennessee State University (<http://capone.mtsu.edu/berc/tacir/tacir.html>)
- Posted timely information to the agency's Facebook page notifying the public of new reports, elaborating on topics of interest, and pointing out relevant research by other organizations (<https://www.facebook.com/TN.ACIR/>)



TACIR

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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 18 June 2020

SUBJECT: Fiscal Year 2019-20 Accomplishments

The following list of the Commission's major accomplishments for fiscal year 2019-20 will be incorporated into the Commission's biennial report for fiscal years 2018-19 and 2019-20.

Published nine official commission reports, further described below:

- 📖 *Public Chapter 952, Acts of 2018: Proposed Shippers' Franchise and Excise Tax Liability Credit Does Not Appear to be Necessary, September 2019*
- 📖 *Timing of Municipal Elections in Tennessee: Continue to Authorize, Not Require, Election Consolidations, September 2019*
- 📖 *Local Government Revenue in Tennessee and the Evolving Market for Cable Television, Satellite Television, and Streaming Video Services, September 2019*
- 📖 *e-Procurement by Local Governments in Tennessee, January 2020*
- 📖 *Improving Victim Safety with Global Positioning System (GPS) Monitoring as a Condition of Release for Defendants Accused of Domestic Violence, January 2020*
- 📖 *Closing Gaps in Tennessee's Waste Tire Program and Giving Local Governments More Flexibility to Prevent Illegal Tire Dumping, January 2020*
- 📖 *K-12 Public Education Funding and Services, January 2020*
- 📖 *Tennessee Valley Authority's Payments in Lieu of Taxes: Annual Report to the General Assembly, January 2020*

Responded to studies referred by the General Assembly:

- Completed a report on a proposed shippers' franchise and excise tax liability credit.
 - The report responded to Public Chapter 952, Acts of 2018, which directed the Commission to study a proposal that would provide a franchise and excise tax credit of 2% to any shipper if that shipper implements a turnaround policy to ensure that pickups and deliveries are performed on time and seeks to incentivize shippers to turn freight quicker. Agreed upon pickup and delivery times could not exceed two hours. The shipper would also provide contact information for the authorized parties involved in the pickup and delivery. The proposal only applies to companies with pickups or deliveries originating or terminating in Shelby County but is not limited to companies with a location in that county. Therefore, companies from across Tennessee and from outside Tennessee would be eligible for the credit.
 - The report recommended that the proposed credit not be adopted at this time.
 - A copy of the final report was sent to bill sponsors Representatives Camper and Thompson, Senator Kelsey, and members of the General Assembly.
- Completed a report on municipal elections in Tennessee.
 - The report was prepared in response to House Bill 2265 by Representative C. Sexton and its companion, Senate Bill 2146 by Senator Gardenhire, which were introduced in 2018 because of concerns about low voter participation and the cost of municipal elections. As amended, the legislation would have required some cities to change their election dates to coincide with either the regular August or November election by 2022. The House Local Government Subcommittee voted to send the study to the Tennessee Advisory Commission on Intergovernmental Relations, while the Senate State and Local Government Committee deferred it to summer study, with the committee chair later saying the committee's intent was for the Commission to conduct the study.

- The report recommended that the Tennessee legislature should continue to authorize, rather than require, municipalities with private act or general law charters to change their election date by ordinance to either the August or November general elections in even-numbered years. The legislature could consider adding one additional even year election date—the presidential primary election in March—as an option for municipalities to move their election date.
- A copy of the final report was sent to the chairs of the Senate State and Local Government Committee, the House Local Government Subcommittee, and members of the General Assembly.
- Completed a report on e-Procurement by local governments in Tennessee.
 - The report was prepared in response to a March 20, 2019, motion passed by the House Local Government Committee requesting a study of House Bill 635 by Representative Travis. House Bill 635, as introduced, amends current law to make it mandatory for local governments to accept online bids and other offers through a “secure electronic interactive system.” The bill exempts local governments below specified population thresholds.
 - The report provides that while recognizing the potential benefits of receiving online bids and other offers, the Commission did not recommend making e-procurement mandatory for Tennessee’s local governments. It does recommend that if lawmakers want the state to have an e-procurement system that local governments could use to receive online bids and other offers, like Maryland and Virginia, they should consider upgrading the state’s current Edison system.
 - A copy of the final report was sent to both Speakers, chair of the House Local Committee, and members of the General Assembly.
- Completed a report on improving victim safety with global positioning system (GPS) monitoring as a condition of release for defendants accused of domestic violence.
 - The report was prepared in response to Public Chapter 827, Acts of 2018, which directs the Commission to conduct a study of the effects and implementation of Global Positioning System monitoring as a condition of release for defendants accused of stalking, sexual assault, domestic abuse, and violations of orders of protection. The report recommends that:

- The report was prepared in response to Senate Joint Resolution 344, introduced by Senator Dickerson in March 2019, which directed the Commission to study the overall effects of illegal waste tire dumps in Tennessee. After the General Assembly adjourned without voting on the resolution, Senator Dickerson, with support from Senate Energy, Agriculture, and Natural Resources Committee Chairman Southerland, sent a letter formally requesting that TACIR take up the study, which the Commission voted to do at its May 2019 meeting.
- The report recommends that
 - the General Assembly should expand the current privilege tax (tire pre-disposal fee) on the retail sale of new tires to include retail sales of used tires as is done in six other states;
 - the state should require commercial waste tire haulers to obtain a permit from the Tennessee Department of Environment and Conservation and provide proof of financial assurance in the form of surety bond, while requiring registered tire retailers to use only permitted haulers or document and transport their own waste tires for proper collection; and
 - the General assembly should consider amending Tennessee Code Annotated, Section 67-4-1610 to authorize counties to:
 - use tire pre-disposal fee revenue to fund public education, inspections, and enforcement efforts to prevent tire dumping, and
 - allow pre-disposal fee revenue to be used for disposing of shredded waste tires in landfills in certain circumstances, where the beneficial end use is documented to be cost prohibitive.
- A copy of the final report was sent to both speakers and chairs of the Senate State and Local Government Committee and the Senate Energy, Agriculture and Natural Resources Committee.
- Completed a report on K-12 public education funding and services.
 - On February 1, 2019, the Commission, responding to a request from its local members, approved an amended research plan for its study on local government revenue and services. The new plan includes a second interim report focusing on K-12 education services and funding as part of

the Commission's comprehensive study of the duties of cities and counties under state law and the funds the state provides to comply, which was requested by the House Finance, Ways and Means Committee during its discussion of House Bill 971 by Representative Sargent in the 110th General Assembly. The first interim report addressed online sales tax collection and distribution and was published in February 2019.

- The report recommended that a comprehensive review of the components be made by the Basic Education Program (BEP) Review Committee or other designated state and local officials and other stakeholders to ensure that the BEP funding formula supports a commonly accepted basic level of education for Tennessee students.
- A copy of the final report was sent to both Speakers and members of the General Assembly.

Published one report requested by the Commission:

- Completed a report examining factors affecting the market for cable television, satellite television, and streaming video services; whether changes in the market are affecting local government revenues; and whether changes to the state's tax and fee structure and its cable television franchising laws are warranted.
 - The report was prepared in response to a request at the January 26, 2018, commission meeting from then-Chairman Mark Norris, who asked the Commission to study the effects of cord cutting on cable television, satellite television, streaming video services, and local government revenue in Tennessee.
 - The report does not recommend any immediate changes to Tennessee's cable franchising laws or its tax and fee structure. Because it is likely that revenue from cable franchise fees will decrease if industry trends continue, the report does recommend that local governments should consider no longer using this revenue to fund government services that have maintenance of effort requirements.
 - The report was sent to both Speakers and members of the General Assembly.

Provided two presentations:

- “Building Tennessee’s Tomorrow: Anticipating the State’s Infrastructure Needs—July 2018 through June 2023” to the Senate Finance, Ways and Means Committee, March 10, 2020.
- “An Overview of TACIR and its Research on Public Purchasing” to the Tennessee Association of Public Purchasing, April 15, 2020.

Responded to requests for information:

- Responded to requests for information and assistance from members of the General Assembly and legislative committees.
- Responded to requests for information and assistance from local government officials, state agencies, lobbyists, the public, and the media.

Administered eleven contracts:

- Nine development districts—support the public infrastructure needs inventory
- Middle Tennessee State University—economic indicators website
- 3 Sigma Consultants, LLC—community resilience to natural disasters report

Accomplishments by policy area:**Fiscal and Tax Policy Research:**

- Completed the Commission’s report to the legislature on Public Chapter 952, Acts of 2018 regarding a proposed shippers’ franchise and excise tax liability credit.
- Completed the report requested by the Commission on local government revenue in Tennessee and the evolving market for cable television, satellite television, and streaming video services.
- Completed the Commission’s report to the legislature on K-12 public education funding and services. On February 1, 2019, the Commission, responding to a request from its local members, approved an amended research plan for its study on local government revenue and services. The new plan includes a second interim report focusing on K-12 education services and funding as part of the Commission’s comprehensive study of the duties of cities and counties under state law and the funds the state provides to comply, which was requested by the

House Finance, Ways and Means Committee during its discussion of House Bill 971 by Representative Sargent in the 110th General Assembly. The first interim report dealt with online sales tax collection and distribution and was published in February 2019.

- Continued to monitor and published a report on the Tennessee Valley Authority's payments in lieu of taxes and the effect of the Electric Generation and Transmission Cooperative Act of 2009 as amended in 2010 (Public Chapter 1035, Acts of 2010).

Education Finance:

- Completed the fiscal year 2020-21 fiscal capacity model.

Land Use, Transportation, and Growth Policy:

- Continued to monitor implementation of Public Chapter 1101, Acts of 1998, Tennessee's growth policy law.

Infrastructure:

- Continued the annual public infrastructure needs inventory. Collected information from 141 school systems, 95 counties, 345 municipalities, and 457 other entities.
- Completed Commission's annual report to the legislature on Tennessee's public infrastructure needs.

Other Research:

- Completed the Commission's report to the legislature on the timing of municipal elections in Tennessee. The report was prepared in response to House Bill 2265 by Representative C. Sexton and its companion, Senate Bill 2146 by Senator Gardenhire, which were introduced in 2018 because of concerns about low voter participation and the cost of municipal elections. As amended, the legislation would have required some cities to change their election dates to coincide with either the regular August or November election by 2022. The House Local Government Subcommittee voted to send the study to the Tennessee Advisory Commission on Intergovernmental Relations, while the Senate State and Local Government Committee deferred it to summer study, with the committee chair later saying the committee's intent was for the Commission to conduct the study
- Completed the Commission's report to the legislature on e-procurement by Local Governments in Tennessee, which was prepared in response to a March 20, 2019

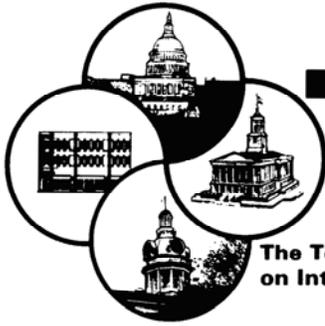
motion passed by the House Local Government Committee requesting a study of House Bill 635 by Representative Travis.

- Completed the Commission's report to the legislature on improving victim safety with global positioning system monitoring as a condition of release for defendants accused of domestic violence, which was prepared in response to Public Chapter 827, Acts of 2018, which directs the Commission to conduct a study of the effects and implementation of Global Positioning System (GPS) monitoring as a condition of release for defendants accused of stalking, sexual assault, domestic abuse, and violations of orders of protection.
- Completed the Commission's report to the legislature on how to close gaps in Tennessee's waste tire program and giving local governments more flexibility to prevent illegal tire dumping. The report was prepared in response to Senate Joint Resolution 344, introduced by Senator Dickerson in March 2019, which directed the Commission to study the overall effects of illegal waste tire dumps in Tennessee. After the General Assembly adjourned without voting on the resolution, Senator Dickerson, with support from Senate Energy, Agriculture, and natural Resources Committee Chairman Southerland, sent a letter formally requesting that TACIR take up the study, which the Commission voted to do at its May 2019 meeting.
- Monitored intergovernmental tax, fiscal, and education legislation.

Using Technology for Public Information:

- Disseminated all reports electronically and maintained detailed focus section about continuing research on TACIR's web page (<https://www.tn.gov/tacir/tacir-publications/publications-by-date.html>)
- Further disseminated information from the annual public infrastructure needs inventory through a partnership with the University of Tennessee to include the data on their state data explorer website (<http://ctasdata1.utk.tennessee.edu/countyoos.html>).
- Developed data visualization and interactive analysis tools for infrastructure reporting. (Tableau <https://www.tn.gov/tacir/infrastructure/infrastructure-reports-/infrastructure-needs-2018-2023/infrastructure-needs-by-county.html>)
- Continued to update and enhance the profiles of Tennessee's counties, providing easy public access to detailed demographic, financial, and other information for each (<https://www.tn.gov/tacir/tennessee-county-profiles-redirect.html>)

- Published timely information Tracking Tennessee's Economy in partnership with Middle Tennessee State University (<http://capone.mtsu.edu/berc/tacir/tacir.html>)
- Posted timely information to the agency's Facebook page notifying the public of new reports, elaborating on topics of interest, and pointing out relevant research by other organizations (<https://www.facebook.com/TN.ACIR/>)



TACIR

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on Intergovernmental Relations



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard *Cliff*
Executive Director

DATE: 3 May 2018

SUBJECT: Legislative Update

Each year at this time, the Commission reviews legislative action on issues related to past studies and amends its work program to add issues submitted to it by the General Assembly. In its second session, the 110th General Assembly passed or considered legislation on several issues related to the Commission's work, some dealing directly with findings and recommendations from commission reports. The General Assembly also passed seven pieces of legislation requiring studies by the Commission, and legislative committees requested three additional Commission studies.

Legislative Action on Issues Studied by the Commission

Broadband Internet—Senate Bill 2504 by Ketron and House Bill 2279 by Lamberth

Broadband internet access, the issue discussed in the Commission's January 2017 report, *Broadband Internet Deployment, Availability, and Adoption in Tennessee*, was the subject of a number of bills debated this session. In 2018, the General Assembly passed Senate Bill 2504 by Ketron and House Bill 2279 by Lamberth—which passed and has been signed by the governor but not yet chaptered—known as the “Competitive Wireless Broadband Investment, Deployment and Safety Act of 2018.” The bill's intended purpose is to maximize investment in wireless connectivity across the state by creating a uniform and predictable framework that limits local obstacles to the deployment of small wireless facilities (SWF) and to encourage shared use of public infrastructure and colocation in a manner that is the most technology neutral and nondiscriminatory. SWF are developed for the establishment of the next generation of

wireless technology, known as 5G, which was a topic touched upon in the 2017 report. The Act also directs the Commission to study and prepare a report, due January 1, 2021, on the effect of the Act.

Two other bills addressing broadband internet failed to pass:

- Senate Bill 1045 by Bowling and House Bill 1410 by Weaver would authorize municipal electric systems to provide broadband outside their electric service area, authorize electric cooperatives to provide broadband both inside and outside their electric service areas, remove territorial restrictions on joint ventures, and would allow municipal electric systems and electric cooperatives to partner in joint ventures without third party entities. Of the changes to state law proposed in this bill, the Commission only recommended authorizing electric cooperatives to provide broadband inside their electric service area. To the extent that the Commission recommended authorizing municipal electrics and electric cooperatives to partner in joint ventures, it recommended that municipal electrics not be authorized to use electric ratepayer revenue to provide broadband outside of its electric service area. The bill was introduced in 2017 and failed in the senate and house subcommittees in 2018.
- Senate Bill 1058 by Bowling and House Bill 970 by Howell would authorize municipal electric systems to provide cable service, two-way video transmission, video programming, and internet services outside its service area. The Commission's report discusses authorizing municipal electric systems to provide broadband outside their electric service areas but did not include this among its recommendations. The bill was taken off notice in both the senate and house subcommittees in 2018.

Annexation and Growth Planning

In its second session, the 110th General Assembly considered two bills related to topics addressed by the Commission's December 2013 report, *Municipal Boundary Changes and Growth Planning in Tennessee—An Interim Report on Public Chapter 441, Acts of 2013*, and by the Commission's January 2015 report, *Municipal Boundaries in Tennessee: Annexation and Growth Planning Policies after Public Chapter 707*.

- Senate Bill 2680 by Bailey and House Bill 2125 by Williams, which was passed by the General Assembly and sent to the governor for signature, reduces the number of owners required to consent to annexation without a referendum from all of the affected owners to a two-thirds majority of the property owners who own a majority of the territory proposed for annexation. This topic was discussed in the Commission's January 2015 report in noting that unlike the

referendum process, which requires only a simple majority to approve annexation, a petition process could be structured to require a higher threshold, affording more protection to those opposed to annexation, if the legislature so chose. The bill provides that a referendum is not required to effectuate annexation of a territory if the proposed annexation consists of nine or fewer parcels, two-thirds of the property owners within the territory proposed for annexation consent in writing, and the total land area of the property owned by the individuals petitioning for the annexation is more than one-half of the territory proposed for annexation, and repeals this provision on January 1, 2023.

- Senate Bill 641 by Watson and House Bill 943 by Carter addressed deannexation of an area annexed by a municipality, a topic discussed in the Commission’s January 2015 and December 2013 reports. In the 2013 report, the Commission recommended further consideration of giving property owners the right to initiate deannexation provided that it does not create non-contiguity or unincorporated islands and that the city is compensated for its investment in municipal infrastructure other than those associated with rate-paid services. The bill as filed would permit voters residing within an area annexed by a municipality to petition the county election commission to hold an election to deannex such territory, specify that taxes may continue to be levied on a deannexed area, and prohibit the discontinuation of utility services outside municipal boundaries for reasons related to deannexation. The Senate version, which passed, had several amendments, including those requiring that the referendum for deannexation be held citywide and that cities that have already begun developing a deannexation plan of their own be exempted. The House version was sent to the Local Government Subcommittee and was taken off notice in March of 2018.

Payment in Lieu of Tax Agreements (“PILOT”)—Senate Bill 2622 by Norris and House Bill 2664 by Carter

Consistent with the Commission’s recommendations in its January 2018 report, *Encouraging More Cooperation and Accountability in Payment in Lieu of Tax Agreements*, Senate Bill 2622 by Norris and House Bill 2664 by Carter, which was passed by the General Assembly and sent to the governor to be signed, helps to alleviate the problem of one local government abating the property taxes of another local government for long durations without agreement. This recently occurred in Sevier County when Pigeon Forge’s industrial development board’s PILOT agreement with a Publix grocery store abated not only the business’s city property taxes but also its county property taxes for a 20-year period. Senate Bill 2622 by Norris and House Bill 2664 by Carter

helps to alleviate this issue by authorizing an industrial development corporation to negotiate a payment in lieu of tax agreement for less than the ad valorem taxes otherwise due for a retail business for a period longer than 10 years, plus a reasonable construction or installation period of not more than three years, if:

- The corporation is a joint industrial development corporation with representation of all separate taxing jurisdictions within the county;
- The corporation has entered into an interlocal agreement with other taxing jurisdictions to establish criteria for any payment in lieu of tax agreements that might affect shared tax bases;
- The corporation has received written approval from each affected local governmental entity. For purposes of this requirement, "affected local governmental entity" means a county or local special school district that will suffer an actual loss of tax revenue under a payment in lieu of tax agreement; or
- The corporation pays the other affected local governments the amount of ad valorem taxes those governments would otherwise receive for the affected property based on its assessed value after the initial ten years of the agreement.¹

Consistent with the Commission's 2018 report, the bill also requires industrial development corporations to hold a public meeting relating to the proposed agreement after notice is provided by the corporation or governing body at least five days prior to the date of the public hearing.

Blight—Senate Bill 2347 by Gardenhire and House Bill 2350 by Brooks and Public Chapter 779, Act of 2018

Senate Bill 2347 by Gardenhire and House Bill 2350 by Brooks, passed by the General Assembly and sent to the governor for signature, is consistent with the recommendation to extend existing land bank authority to other jurisdictions in the Commission's 2012 report, *Dealing with Blight: Strategies for Tennessee's Communities*. The bill authorizes the city of Cleveland and Hardeman County to participate in the Tennessee local land bank program. The General Assembly also addressed another program discussed in the 2012 blight report, the Neighborhood Preservation Act, which

¹ Note that Subsection I of Senate Bill 2622 by Norris and House Bill 2664 by Carter does not apply to Shelby County, which already has agreements in place to prevent such issues. In Shelby County, local governments are required to form a joint IDB or enter an interlocal agreement in lieu of receiving written approval from the county mayor and the county legislative body for their IDBs' PILOT agreements.

allows any neighbor or interested party to sue the owner of a property not maintained to community standards, and applied only to Davidson, Shelby, and Madison counties. Public Chapter 779, Acts of 2018, extends the application of the Neighborhood Preservation Act to include any county or municipality that has formed a land bank, and also makes several changes to the Act to improve and expedite the legal process.

Court Fees and Taxes

The 110th General Assembly considered Senate Bill 1084 by Lundberg and House Bill 880 by Daniel—consistent with a recommendation in the Commission’s January 2017 report *Tennessee’s Court Fees and Taxes: Funding the Courts Fairly*—which would create a court fee and advisory council that would make recommendations concerning pending legislation proposing any new litigation tax or fee on civil or criminal cases to the members of the general assembly. The bill failed to advance past the Senate Judiciary Committee and was taken off notice in the House Finance, Ways and Means Subcommittee.

Elections

The General Assembly considered, but did not pass, two bills consistent with recommendations in the Commission’s 2007 report, *Trust but Verify: Increasing Voter Confidence in Election Results*. Senate Bill 2090 by Yarbro and House Bill 2300 by Alexander would require each voting precinct using direct recording electronic voting systems to have the capability to create a voter-verifiable paper audit trail for each ballot cast. Senate Bill 2438 by Yarbro and House Bill 2567 by Stewart would require each county election commission to utilize precinct-based optical scanners.

Professional Privilege Tax

The professional privilege tax in Tennessee—the issue discussed in the Commission’s December 2016 report, *Professional Privilege Tax in Tennessee: Taxing Professionals Fairly*—was the subject of three bills discussed in the second session of the 110th General Assembly, all of which failed to pass.

- Senate Bill 205 by Bowling and House Bill 1034 by VanHuss would eliminate the professional privilege tax for the tax year ending on May 31, 2018, and subsequent tax years.
- Senate Bill 132 by Bowling and House Bill 41 by VanHuss would phase out the professional privilege tax over a five year period. The report studied alternatives for eliminating or phasing out the professional privilege tax.

- Senate Bill 306 by Kyle and House Bill 46 by Clemmons would exempt individuals from the professional privilege tax for the first year in which they are licensed or registered in a taxable profession.

Legislative Requests for Further Studies by the Commission

The General Assembly passed seven pieces of legislation requiring new Commission studies. Committees and subcommittees of the legislature also requested Commission studies on three additional bills.

Studies Directed by Legislation

In 2018, the General Assembly passed seven pieces of legislation requiring new commission studies:

I. Nontax-Producing Properties

Public Chapter 693, Acts of 2018, directs the Commission to determine the amounts of nontax-producing property held by state and local governments in Tennessee and provide recommendations as to the highest and best uses of the properties and ways for making the properties productive. The bill requires the Commission to report its findings and recommendations by March 1, 2019.

II. Small Cell Wireless Facilities

Senate Bill 2504 by Ketron and House Bill 2279 by Lamberth, which passed and has been signed by the governor but not yet chaptered, known as the “Competitive Wireless Broadband Investment, Deployment and Safety Act of 2018” makes changes to the laws governing the deployment of facilities for providing wireless telecommunications and broadband internet services in Tennessee. The Act also directs the Commission to study and submit a report by January 2021 on

- the Act’s effect on the deployment of broadband and the Act’s fiscal effect on local governments;
- best practices both from the perspective of stakeholders and from a review of other states;
- opportunities to advance other policy goals supported by the deployment of facilities for providing wireless broadband, specifically opportunities to advance the quality of transportation in Tennessee by utilizing technological applications, sometimes referred to as “smart transportation applications”; and

- recommendations for any changes to the law based on the findings of the Commission’s study.

III. Criminal Statute of Limitations

Senate Bill 2538 by Ketron and House Bill 2536 by Sparks, which was passed by the General Assembly and sent to the governor for signature, direct the Commission to study the effectiveness of Tennessee’s statutes of limitation on the prosecution of criminal offenses. It must include, but not be limited to, information on the effectiveness of statutes of limitation on the prosecution of sexual offenses. The Act requires the Commission to report its findings and recommendations, including any proposed legislation, by January 15, 2019.

IV. GPS Monitoring as a Condition of Bail for Domestic Abuse Offenders

Senate Bill 1133 by Kyle and House Bill 849 by Hardaway, which passed and has been signed by the governor but not yet chaptered, directs the Commission to study the implementation and effects of GPS monitoring as a condition of bail for defendants accused of stalking, aggravated stalking, especially aggravated stalking, domestic abuse, sexual assault, or a violation of an order of protection. The Act requires the Commission to report its findings and recommendations by January 1, 2020.

V. Creation of Food Desert Relief Enterprises Fund

Public Chapter 795, Acts of 2018, directs the Commission to study the potential, overall effects of creating a grant and loan program administered by the department of economic and community development to encourage the financing and development of food desert relief enterprises that sell fresh food in low-income, underserved areas of the state. The Act requires the study to include the benefits and costs of creating a special reserve fund in the state treasury to be known as the “Fresh Food Financing Fund” into which the revenue generated from 0.0625 percent of the rate of tax imposed by Tennessee Code Annotated, Section 67-6-228(a), on retail sales of sugar-sweetened beverages is deposited for the sole use of funding grants and loans to encourage the financing and development of food desert relief enterprises—also known as affordable healthy food retail stores. The Act requires the Commission to submit its report by February 1, 2019.

VI. Credit to Shipper’s Franchise and Excise Tax Liability (Shelby County)

Senate Bill 1277 by Norris and House Bill 1345 by Camper, which was passed by the General Assembly and sent to the governor for signature, directs the Commission to

perform a study of the potential, overall effects of creating a franchise and excise tax credit for shippers with pickups or deliveries originating in, or destined to Shelby County. The bill establishes criteria to be considered by the Commission in conducting the study and requires the Commission to submit a report disclosing the findings of the study and recommendations, including any proposed legislation or interim reports, to the General Assembly by February 1, 2020.

VII. Multi-school system Counties

Senate Joint Resolution 593, which was passed by the General Assembly and signed by the governor, directs the Commission to study the overall effects on public education of the laws and regulations related to the sharing of resources among school districts located in the same county and the operation within a county of municipal or special school districts in addition to the county school system. No due date was listed in the resolution.

Studies Requested by Committees and Subcommittees

Three additional Commission studies were requested by legislative committees and subcommittees:

I. Consolidation of Municipal Elections

House Bill 2265 by Sexton and Senate Bill 2146 by Gardenhire, as amended, would require all municipal elections to coincide with the August or November general elections beginning in 2022. To match the terms of elected officials with the new election dates, the bill would have allowed municipalities to extend terms up to two years beyond their regular expiration dates. During the House Local Government Subcommittee discussion on the bill, Representative Wirgau made a motion, which passed, to request that the Commission study the bill. Its companion, Senate Bill 2146, was deferred to summer study in Senate State and Local Government Committee, but the chair has indicated that they intend for the Commission to conduct the study.

II. State-shared Taxes and Local Services

House Bill 971 by Sargent and Senate Bill 1075 by Watson, as amended by the House Finance Subcommittee, would revise the distribution of local government revenue generation by the 2.25 percent local sales tax imposed on the sales price on the sales made in this state by dealers with no location in Tennessee. During discussion of the bill in the House Finance, Ways and Means Committee, Representative Carter made a motion, which passed, to send the bill to the Commission for further study.

III. Tobacco Master Settlement Agreement - Cigarette Sales

Senate Bill 1989 by Stevens and House Bill 2154 by Hawk as drafted would reduce the number of reasons for which a non-participating manufacturer (NPM) would be excluded from the Tobacco Product Manufacturing Directory for failure to pay an escrow payment governed by the Tobacco Master Settlement Agreement.

Representative Hawk made a motion, which passed, in the House Finance, Ways and Means Committee to send the bill to the Commission for additional study with a requested due date of 2020. The Senate Finance, Ways and Means Committee later amended the bill to provide guidelines for a Commission study. The amendment specifies that the Commission shall perform a study of the department of revenue's use of Tennessee Code Annotated, Title 67, Chapter 4, Part 26, to exclude or remove an escrow-compliant nonparticipating manufacturer (NPM) or brand family, or both, owned by the NPM from the directory of approved tobacco product manufacturers in Tennessee based on the failure of an unrelated, third-party NPM to make required escrow payments on prior sales of the brand family by the unrelated NPM in Tennessee, and to determine the necessity for any such enforcement action by the department of revenue either under the provisions of the tobacco master settlement agreement or for the purpose of limiting an adverse impact to state revenues, if any. The amendment, which was passed by the Senate Finance, Ways and Means Committee but remains in the Senate Calendar Committee, lists a due date of March 1, 2019.



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard *Cliff*
Executive Director

DATE: 29 May 2019

SUBJECT: Legislative Update

Each year at this time, the Commission reviews legislative action on issues related to past studies and amends its work program to add new studies submitted to it by the General Assembly. In its first session, the 111th General Assembly passed or considered legislation on several issues related to the Commission’s work, some dealing directly with findings and recommendations from Commission reports. The General Assembly also requested four additional Commission studies.

Legislative Action on Issues Studied by the Commission

Criminal Statutes of Limitations

Criminal statutes of limitations—the focus of the Commission’s December 2018 report, *Refining Tennessee’s Criminal Statutes of Limitations*—was the subject of several bills debated this session, including two bills that became law. In 2019, the 111th General Assembly passed Senate Bill 1252 by Gresham and House Bill 565 by Dunn, which takes action similar to one of the recommendations from the Commission’s report and incorporates two others. Specifically, the bill eliminates the criminal statutes of limitations for all felony child sex crimes committed against victims less than 13 years of age. The Commission had recommended eliminating the statute of limitation for all Class A and B felony child sexual abuse crimes and considering extending or eliminating the statute of limitation for other child sexual abuse crimes. For felony child sex crimes committed against victims between the ages of 13 to 17 years of age, the new law eliminates the statute of limitation if the victim reports the crime to another person prior to the victim attaining 23 years old. For those victims between the ages of

13 to 17 years old, if the aforementioned reporting requirement is not met, for prosecution to be brought more than 25 years after the victim reaches 18 years of age, the prosecution must offer admissible and credible evidence corroborating the allegations or similar acts by the defendant. As the Commission's report recommends, the new law also corrects the drafting error in state statute that had the unintentional effect of shortening the statute of limitation for child rape and aggravated child rape offenses if the victim did not report the crime within three years of the offense.

Following another one of the recommendations from the Commission's report, the General Assembly also passed Senate Bill 593 by Reeves and House Bill 113 by Sparks, which extends the statute of limitation for prosecution of second degree murder from 15 years from the offense to at any time after the offense is committed.

Several other bills addressing criminal statutes of limitations were also considered but did not advance:

- Senate Bill 368 by Massey and House Bill 286 by Coley,
- Senate Bill 169 by Robinson and House Bill 309 by Thompson,
- Senate Bill 545 by Robinson and House Bill 660 by Thompson,
- Senate Bill 592 by Reeves and House Bill 112 by Sparks,
- Senate Bill 1131 by Swann and House Bill 140 by Powell.

Internet Sales Tax

Internet sales tax collection and distribution, the issue discussed in the Commission's February 2019 interim report, *Leveling the Playing Field: Internet Sales Tax in Tennessee*, was the subject of three bills passed by the General Assembly. Senate Bill 325 by Gardenhire and House Bill 326 by Hicks is similar in effect to the Commission's recommendations. The bill eliminates the uniform statewide local option sales tax rate of 2.25% for out-of-state sellers with no physical presence in the state, bases the distribution of local revenue received by the Department of Revenue from such out-of-state sellers on the destination of sales, and provides for an alternative distribution method if the department is unable to determine the proper distribution. Note that the Commission did not explicitly recommend the elimination of the uniform rate; the Commission recommended that the state could continue to offer sellers the option of paying the destination rate or the uniform rate, but in either case, distribution of the revenue should be based on the destination of the sales. The bill also follows the Commission's recommendation to retain origin-based sourcing for intrastate sales when

the state's streamlined sales tax provisions of Public Chapter 602, Acts of 2007, become effective.

The General Assembly passed two additional bills related to the Commission's report on internet sales tax. Consistent with the Commission's recommendation to retain the single article sales tax cap, the General Assembly passed Public Chapter 157, Acts of 2019, to delay until July 1, 2021, the implementation of the streamlined sales tax provisions of Public Chapter 602, Acts of 2007, including a provision that would have eliminated the single article sales tax cap. Following the Commission's recommendation, the General Assembly also passed Senate Bill 165 by Roberts and House Bill 667 by Daniel to enable the Department of Revenue to enforce Rule 129, which requires out-of-state sellers with no physical presence in the state with sales of more than \$500,000 in Tennessee to collect and remit sales tax.

Professional Privilege Tax

The professional privilege tax in Tennessee—the issue discussed in the Commission's December 2016 report, *Professional Privilege Tax in Tennessee: Taxing Professionals Fairly*—was the subject of several bills, including one that became law. Senate Bill 398 by Kelsey and House Bill 1262 by Holt was passed by the 111th General Assembly and, effective May 2020, will eliminate the \$400 professional privilege tax for 15 of the 22 professions currently required to pay the tax. The 15 exempted professions include the following: accountants, architects, athlete agents, audiologists, chiropractors, dentists, engineers, landscape architects, optometrists, pharmacists, podiatrists, psychologists, real estate brokers, speech pathologists, and veterinarians. The new law is estimated to cut taxes by over \$22 million and will exempt approximately 56,373 individuals from paying this tax. While the Commission's report did not make a specific recommendation on eliminating the privilege tax, it did note that eliminating the tax entirely would cost the state an estimated \$88 million per year. It also noted that over the years, legislators and representatives of various professions have argued that Tennessee's professional privilege tax is not equitable, saying that some professions that are not taxed have greater incomes than those that are taxed, that incomes of professionals vary significantly within the taxed professions, and that those in professions earning lower salaries have to pay the same amount as those earning more. The report found that salary data supports these arguments.

The General Assembly considered, but did not pass, four other bills addressing the professional privilege tax:

- Senate Bill 253 by Kyle and House Bill 246 by Clemmons,

- Senate Bill 315 by Watson and House Bill 338 by Reedy,
- Senate Bill 492 by Bowling and House Bill 40 by Van Huss, and
- Senate Bill 1290 by Pody and House Bill 1053 by Hall.

Healthy Workplace Act

In 2014, Tennessee adopted an anti-bullying statute known as the Healthy Workplace Act, which directed TACIR to create a model policy for the use of public employers. The Act says that employers that adopt an anti-bullying policy that conforms to the law will be immune from lawsuits alleging negligent or intentional infliction of mental anguish caused by the abusive conduct of employees. Commission staff convened a working group with other agencies and drafted a model policy that included the required components outlined in the law, but the Commission chose not to adopt that or any other model policy. Public Chapter 214, Acts of 2019, sponsored by Senator Akbari and Representative Parkinson, extends the definition of “employer” in the Act to include private employers. The new law makes it clear that it does not create a cause of action that can be taken against an employer for not adopting a policy.

Broadband Internet

Broadband internet access—the issue discussed in the Commission’s January 2017 report, *Broadband Internet Deployment, Availability, and Adoption in Tennessee*—was the subject of a number of bills filed this session. The General Assembly passed Senate Bill 1458 by Bailey and House Bill 605 by Tillis, which exempts from state and local sales and use tax fiber-optic cable after it has been attached to a utility pole, building, or other structure or installed underground. The bill also deletes the current credit against franchise and excise tax liability equal to six percent of the purchase price of qualified broadband internet access equipment. Other bills relating to the Commission’s report were considered but not passed by the legislature:

- Senate Bill 79 by Kurita and House Bill 130 by Reedy would have authorized municipal electric plants to provide internet and other services outside its service area.
- Senate Bill 489 by Bowling and House Bill 821 by Rudder would have authorized municipal electric plants, rural electric cooperatives, and telephone cooperatives to provide broadband and other services outside their service area.
- Senate Bill 494 by Bowling and House Bill 819 by Rudder would have required a municipal electric system to obtain the written consent of each electric

cooperative, municipal electric system, or telephone cooperative in whose territory the system will provide broadband, internet, and related services.

Annexation and Land Use

The General Assembly considered bills related to topics addressed by the Commission's January 2015 report, *Municipal Boundaries in Tennessee: Annexation and Growth Planning Policies after Public Chapter 707* and by the Commission's October 2015 report, *Community-based Land-use Decisions: Public Participation in the Rezoning Process*.

- Senate Bill 557 by Johnson and House Bill 1089 by Whitson, which passed, specifies that those "who reside in or own property in the territory proposed for annexation" rather than just residents of a territory proposed for annexation may vote in the annexation referendum.
- Senate Bill 715 by Watson and House Bill 853 by Carter, which did not pass, would have required the consent of a county before a municipality may annex territory that is not contiguous to the municipality's boundary.

Senate Bill 521 by Niceley and House Bill 418 by Marsh, which did not pass, would have required a property owner's written consent to amendments to a county or city zoning ordinance that affects the property owner's property. The subject of this legislation was the focus of the Commission's 2015 report, *Community-based Land-use Decisions: Public Participation in the Rezoning Process*.

Court Fees Advisory Council

The 111th General Assembly considered Senate Bill 586 by Lundberg and House Bill 670 by Daniel, which was consistent with a recommendation in the Commission's January 2017 report *Tennessee's Court Fees and Taxes: Funding the Courts Fairly*. The bill would have created a court fee and advisory council that would make recommendations concerning pending legislation proposing any new litigation tax or fee on civil or criminal cases to the members of the general assembly. The bill failed to advance.

Legislative Requests for Further Studies by the Commission

In 2019, the General Assembly requested four new TACIR studies. One of the studies is directed by a public chapter, two studies are requested by legislative committees, and one study is requested by a letter from Senator Dickerson.

Tennessee Right to Shop Act

The 111th General Assembly passed Senate Bill 510 by Roberts and House Bill 419 by Smith, known as the Tennessee Right to Shop Act. The new law requires insurers to provide information that enables the insured to shop around for the best price on medical services, and authorizes insurers to offer incentive programs to reward the insured for choosing lower cost services. The type of program authorized by the bill, one where carriers offer health plans that include incentives to enrollees for shopping for healthcare services at lower costs, are commonly referred to as “Right to Shop” programs. Right to Shop programs are meant to address rising health care costs by encouraging the insured to switch to lower cost service providers.

The new law also directs TACIR “to perform a study of any cost savings realized by enrollees with health plans, including private health plans and state funded health plans, in states that have adopted legislation or programs that require carriers offering health plans in those states to offer incentive programs to enrollees for shopping for healthcare services at lower costs, commonly referred to as “Right to Shop” legislation or programs. The study shall include, at a minimum, an examination of savings realized by such programs in Maine, New Hampshire, Florida, Arizona, and Kentucky.” The law requires TACIR to report its findings to the General Assembly no later than December 2020.

Community Resilience

Senate Bill 1114 by Senator Yarbro and House Bill 1120 by Representative Freeman would have created a state government task force on extreme weather, natural catastrophes, and community resilience. The proposed 24 member task force would have largely been comprised of representatives of government agencies that are in some way related to community resilience. As amended, the bill would have required the proposed task force to submit a report of its finding and recommendations to the Tennessee General Assembly by July 1, 2020.

However, during discussion on the bill in the Tennessee General Assembly’s House State Committee, Representative Hicks suggested that in lieu of creating a 24 member task force to produce a report and recommendations, it would be more efficient to have TACIR study the issue, meet with the relevant government agencies and stakeholders, and produce a report with recommendations. Later, Representative Hawk made a motion, which passed, directing the Commission to study the issues in House Bill 1120. Senator Yarbro made a motion, which passed, in the Senate State and Local

Government Committee directing the Commission to study the issues of Senate Bill 1114.

Online Bidding and Local Governments

Under current law, local governments may receive bids, proposals, and other offers electronically. Senate Bill 600 by Jackson and House Bill 635 by Travis would have required local governments to provide a secure electronic interactive system as an additional option to satisfy any requirement for mailing invitations to bid, requests for proposals, and other offers electronically. The bill would have also required local governments to provide the option for vendors to submit bids, proposals, and other offers electronically. The bill, which did not pass, would have exempted local governments that are currently without access to high-speed internet or a computer from these requirements until such time that access to high-speed internet or a computer becomes available. In the House Local Government Committee, Representative Travis made a motion, which passed, to send the bill to TACIR for a study.

Illegal Tire Dumping in Tennessee

Senator Dickerson introduced Senate Joint Resolution 344, directing TACIR to study problems stemming from illegal waste tire dumps in Tennessee. The legislation was referred to the Senate Energy, Agriculture, and Natural Resources Committee, but the 111th General Assembly adjourned without taking up the bill. Senator Dickerson, with support from Senate Energy, Agriculture, and Natural Resources Committee Chairman Steve Southerland, sent a letter on May 5th to formally request that TACIR take up the study.

The letter from Senator Dickerson requests that the study focus on the following topics:

- the health risks of illegal waste tire dumps,
- dangers of the igniting and burning of illegal waste tire dumps,
- current recycling methods for waste tires,
- new recycling alternatives for waste tires,
- new preventative strategies for the practice of illegal waste tire dumping, and
- incentives for recycling through state and local programs.



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard *Cliff*
Executive Director

DATE: 18 June 2020

SUBJECT: Legislative Update

Each year at this time, the Commission reviews legislative action on issues related to past studies and amends its work program to add new studies submitted to it by the General Assembly. In its second session, the 111th General Assembly passed or considered legislation on several issues related to the Commission's work, some dealing directly with findings and recommendations from Commission reports. The General Assembly is also considering six additional Commission studies. However, because of the COVID-19 pandemic, the General Assembly stands in recess until June 1, 2020, and has not yet forwarded any studies to the Commission.

Legislative Action on Issues Studied by the Commission

911 System Funding

In 2017, the Commission published its report, *Tennessee's 911 System: Functionality and Funding Adequacy*, as required by Public Chapter 795, Acts of 2014. This law replaced the 911 funding system that relied on a combination of state and local fees to fund 911 services with a flat statewide rate of \$1.16 on all types of telecommunications services that connect to 911 and established a new method for distributing funds.

On August 7, 2019, the Tennessee Emergency Communications Board voted to increase the 911 surcharge collected by dealers of communications services or prepaid communication services from \$1.16 to \$1.50. The 111th General Assembly passed Senate Joint Resolution 836 by Bowling, ratifying this increase effective January 1, 2021. The

resolution is expected to increase state revenue by \$12.5 million in fiscal year 2020-21 and by \$25.1 million in subsequent fiscal years.

Internet Sales Tax

The 111th General Assembly passed Public Chapter 646, Acts of 2020, sponsored by Senator Johnson and Representative Lamberth, which relates to internet sales tax collection. This subject was discussed in the Commission's February 2019 interim report, *Leveling the Playing Field: Internet Sales Tax in Tennessee*. Effective October 2019, the Department of Revenue began requiring out-of-state sellers with no physical presence in Tennessee with sales of more than \$500,000 in the state to collect and remit sales tax. Beginning October 1, 2020, Public Chapter 646 additionally requires marketplace facilitators—those who facilitate the sale of a seller's products or services through a physical or electronic marketplace and who process the payment of such sales—to collect and remit sales tax. According to the fiscal note, the new law is projected to increase state and local revenue by \$113.1 million and \$37.7 million, respectively, in fiscal year 2021-22 and subsequent years.

Access to Healthy Food

Limited access to affordable and healthy foods in certain communities throughout Tennessee was the subject of the Commission's January 2019 report, *Access to Affordable Healthy Food*. The 111th General Assembly considered this issue in Senate Bill 1619 by Gardenhire and House Bill 2109 by White, which would "establish a statewide program to increase the availability of fresh and nutritious food, including fruits and vegetables, in underserved communities by providing financing for retailers to open, renovate, or expand grocery stores." While the Commission's report found that a state program for encouraging the development of grocery stores and other food retailers in food deserts may not be necessary, the report recommended that Tennessee structure such a program, if it were to adopt one, as a public-private partnership with one or more community development financial institutions (CDFI) or similar entities to take advantage of existing federal programs and to maximize private investment. Consistent with this recommendation, Senate Bill 1619 and House Bill 2109, which are in committee, would require the Department of Economic and Community Development to cooperate with public and private sector partners to develop a financing program for the construction, rehabilitation, or expansion of grocery stores in underserved communities and would authorize the department to contract with one or more qualified nonprofit organizations or CDFIs to administer the program through a public-private partnership.

Broadband Internet

Broadband internet access—the issue discussed in the Commission’s January 2017 report, *Broadband Internet Deployment, Availability, and Adoption in Tennessee*—was the subject of several bills filed this legislative session.

- Senate Bill 1877 by Yarbrow, assigned to the General Subcommittee of the Senate Commerce and Labor Committee, and House Bill 1925 by Shaw, assigned to the House Business Subcommittee, would provide grant funding to encourage new remote work in distressed rural counties, including funding to cover expenses for broadband access and upgrades.
- Senate Bill 1987 by Stevens and House Bill 2662 by Todd would require rural electric cooperatives providing broadband internet or similar services to notify businesses also providing such services within their service area prior to when the cooperative will be in open trenching for new construction or property development, and would authorize those businesses to use the open trench to install their own infrastructure. The legislation was assigned to the General Subcommittee of the Senate Commerce and Labor Committee and failed to pass the House Utilities Subcommittee.
- Senate Bill 2713 by Hensley and House Bill 2703 by Griffey, which are in committee, would create the Tennessee Rural Economic Development Fund to support economic development programs, including broadband accessibility, in rural counties.
- Senate Bill 2803 by Akbari and House Bill 2605 by Cooper would require the Department of Environment and Conservation to make broadband internet service available to visitors at all state parks. The legislation was referred to the Senate Energy, Agriculture and Natural Resources Committee but failed to pass the House Agriculture and Natural Resources Subcommittee.

K-12 Education Funding

The 111th General Assembly considered numerous bills that propose changes to the state’s Basic Education Program (BEP) funding formula—revising the number of positions for teachers, nurses, and counselors funded through the BEP—including the following bills, all of which are in committee:

- Senate Bill 1149 by Akbari and House Bill 255 by Freeman,
- Senate Bill 1916 by Yarbrow and House Bill 2026 by G. Johnson,
- Senate Bill 1917 by Yarbrow and House Bill 2025 by G. Johnson, and

- Senate Bill 2559 by Robinson and House Bill 2756 by DeBerry.

The Commission's January 2020 interim report, *K-12 Public Education Funding and Services*, discussed the funding mechanisms for Tennessee's K-12 public schools, and while the Commission did not make recommendations regarding specific components of the BEP funding formula, the report recognized that the needs of communities in Tennessee are continuously evolving and that it is likely the BEP could better account for those needs. Based on those findings, the Commission recommended that the BEP review committee or other state and local officials and other stakeholders conduct a comprehensive review of BEP components.

Land Use

Senate Bill 2181 by Niceley and House Bill 1950 by Daniel would expand upon the existing public notice requirements in state law for a public hearing on an amendment to a zoning ordinance. Current law requires local governments to publish one notice in a newspaper of general circulation at least 15 days prior to such a hearing. As introduced, the legislation would additionally require notice by mail to be sent to property owners within the boundaries of a proposed zoning ordinance adoption or amendment. The legislation is in the Senate State and Local Government Committee but, as amended, failed to pass the House Property and Planning Subcommittee.

This subject was the focus of the Commission's 2015 report, *Community-based Land-use Decisions: Public Participation in the Rezoning Process*. The report did not recommend any specific public notice methods for property rezoning but noted that a single notice in a newspaper and one public hearing is often not enough to ensure community involvement. The report further suggested that providing public hearing notices by mail to surrounding property owners would help ensure that they are aware of potential incompatible uses and would give them an opportunity to raise concerns at the hearings.

Local Government Conflicts of Interest

Public Chapter 1072, Acts of 2016, prohibits a member of a county legislative body who is also an employee of the same county or whose spouse is an employee of the same county to vote on matters that would increase the pay or benefits of that member or member's spouse. This method of managing conflicts of interest was discussed in the Commission's January 2016 report, *County Employees Serving on their County Commissions: Managing Conflict of Interest to Maintain Integrity and Trust*. Other methods

of managing local government conflicts of interest related to the methods discussed in the report were the subject of a number of bills this session.

- Senate Bill 1614 by Haile and House Bill 1607 by Lamberth, which are in committee, would remove the prohibition against a county commissioner who is also a county employee from voting on matters in which the commissioner has a conflict of interest if the commissioner informs the county governing body of the conflict prior to the vote and would authorize a county commissioner who has a conflict of interest to abstain from a vote.
- Senate Bill 1631 by Swann and House Bill 1570 by Moon would extend the period during which a county commissioner's vote may be challenged based on a possible conflict of interest and would provide a process for reconsideration of the vote. The legislation was referred to the Senate Calendar Committee and placed behind the budget in the House.
- Senate Bill 2600 by Niceley and House Bill 1943 by Holt would expand the action that constitutes a conflict of interest for purposes of the prohibition against a county commissioner voting on matters before the commission. The bill would also provide for the removal of a county commissioner who votes on a matter with which the commissioner has a conflict of interest or who fails to declare the conflict. The legislation is in the Senate State and Local Government Committee but failed to pass the House Cities and Counties Subcommittee.

Professional Privilege Tax

In 2019, the 111th General Assembly passed legislation eliminating the professional privilege tax for 15 professions. Tennessee's professional privilege tax was discussed in the Commission's December 2016 report, *Professional Privilege Tax in Tennessee: Taxing Professionals Fairly*. While the Commission's report did not make a specific recommendation on eliminating the privilege tax, it did note that over the years, legislators and representatives of various professions have argued that Tennessee's professional privilege tax is not equitable, saying that some professions that are not taxed have greater incomes than those that are taxed, that incomes of professionals vary significantly within the taxed professions, and that those in professions earning lower salaries have to pay the same amount as those earning more. The 111th General Assembly considered several additional bills this legislative session addressing the professional privilege tax.

- Senate Bill 1745 by Lundberg and House Bill 1551 by Parkinson would exempt judges and chancellors who are prohibited from practicing law from the

professional privilege tax assessed on attorneys. The legislation was assigned to the General Subcommittee of Senate Finance, Ways and Means Revenue Subcommittee and was placed behind the budget in the House.

- Senate Bill 1968 by Southerland and House Bill 2118 by Eldridge would exempt retired physicians engaged solely in the provision of free healthcare services from the professional privilege tax. The legislation was assigned to the General Subcommittee of Senate Finance, Ways and Means Revenue Subcommittee and the House Finance, Ways and Means Subcommittee.
- Senate Bill 2201 by Johnson and House Bill 2268 by Lamberth, which are in committee, would decrease the professional privilege tax from \$400 to \$200.
- Senate Bill 2669 by Gresham and House Bill 2676 by Gant, as amended, would decrease from \$400 to \$200 the professional privilege tax assessed on broker-dealers and securities agents and would eliminate the professional privilege tax assessed on attorneys, investment advisors, physicians, and osteopathic physicians. The legislation was referred to the Senate Finance, Ways and Means Committee with a negative recommendation and was placed behind the budget in the House.

Tire Disposal

Current law imposes a pre-disposal fee on the retail sale of new tires in Tennessee and limits the purpose for which revenue from the fee may be used to the beneficial end use of waste tires. In its January 2020 report, *Closing Gaps in Tennessee's Waste Tire Program and Giving Local Governments More Flexibility to Prevent Illegal Tire Dumping*, the Commission recommended expanding the applicability of this fee to the retail sale of used tires. In that report, the Commission also recommended providing greater flexibility to local governments in the use of tire pre-disposal fee revenue. Consistent with the Commission's recommendations, Senate Bill 1994 by Dickerson would both expand the pre-disposal fee program for new tires to sales of used tires and include illegal waste tire dumping enforcement and waste tire collection days among the purposes for which revenue from the fee may be used. The bill was assigned to the General Subcommittee of the Senate Transportation & Safety Committee.

Legislative Requests for Further Studies by the Commission

On March 19, 2020, the 111th General Assembly recessed in response to the COVID-19 pandemic. At that time, the General Assembly was considering six bills that would

each create a new TACIR study as outlined below. The General Assembly is scheduled to reconvene June 1, 2020.

Comprehensive Growth Plans

In 1998, the General Assembly enacted legislation establishing a comprehensive growth policy for the state, which requires local governments to establish and maintain comprehensive growth plans in each county. Senate Bill 2221 by Southerland and House Bill 2306 by Eldridge would remove that requirement, and the Senate State and Local Government Committee voted to send Senate Bill 2221 to TACIR for study.

Homicide Rate of African American Victims

The House Judiciary Committee voted to direct TACIR to study the issues presented in House Bill 1545 by Staples (Senate Bill 1830 by Akbari), the purpose of which is “to determine the causes of the high homicide rate among African American victims in this state.” The study must include:

- a recent historical comparison of the homicide rate among African American victims in Tennessee, and possible factors affecting changes in that rate over time;
- explanatory factors for Tennessee's high rate of homicide among African American victims;
- a comparison of the homicide rate among African American victims in Tennessee with the homicide rate among other persons in this state, including the homicide rates among other minority groups;
- a comparison of the homicide rates in Tennessee with those of neighboring states;
- a review of state and local initiatives to combat high homicide rates among African American victims in neighboring states;
- and any other information or analysis the advisory commission may deem relevant to the purpose of the study.

As amended, the bill would require TACIR to report its findings to the General Assembly no later than January 1, 2022.

Passenger Railroad Service

As amended, Senate Bill 2065 by Gardenhire and House Bill 1712 by Powell direct TACIR to study “the feasibility of expanding passenger railroad service in this state through the National Railroad Passenger Corporation, doing business as Amtrak, including identified areas of demand for passenger rail service, operating characteristics of potential service options, forecast performance options, and projected operational costs to the state.” Senate Bill 2065 passed the Senate and House Bill 1712 was placed on the final calendar of the House Calendar and Rules Committee. The bill does not specify a due date.

Privilege Taxes on Development

Senate Bill 2372 by Reeves and House Bill 2453 by Sparks direct TACIR to conduct a study on the effects of levying privilege taxes on development, development taxes, or adequate facilities taxes. The sponsors of the bills indicated in the Senate Finance Ways and Means Revenue Subcommittee and the House Finance, Ways, and Means Committee to explore options for increasing revenue for capital investment projects to respond to increased growth in communities. The bill requires TACIR to report its findings and recommendations to the members of the finance, ways and means committees of the house of representatives and senate by January 31, 2021.

Relative Caregivers

The Senate and House Judiciary Committees voted to send the issues in Senate Bill 1602 by Briggs and House Bill 1563 by Staples to TACIR. The bill requires TACIR to conduct a study on relative caregivers of children at risk of entering the foster care system in Tennessee “to determine the factors impacting the financial burden on relative caregivers in this state, whether legislative action is necessary or appropriate to address those causes, and ways in which the state and local governments can work together to reduce the burden.” TACIR would be required to report its findings to the General Assembly by January 1, 2022, and the study must include:

- an analysis of the financial burden of the opioid crisis on relative caregivers;
- the success rates of relative caregivers preventing children from entering foster care;
- any correlation between the financial resources of relative caregivers and the success rates of preventing children from entering state custody;
- possible factors at the local, state, and federal levels impacting the financial burden on relative caregivers;

- and any other information or analysis the commission may deem relevant to the purpose of the study.

Vehicle Emissions Testing

Senate Bill 2605 by Senator Robinson and House Bill 2853 by Representative Potts direct TACIR to conduct a study of the effectiveness of vehicle emissions testing in Tennessee and report its findings and recommendations to the House Transportation Committee and the Senate Transportation and Safety Committee by February 1, 2021.