

TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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**MINUTES OF THE
TENNESSEE ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS**

January 25, 2024

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room III of the Cordell Hull Building at 1:04 p.m., Chairman Ken YAGER, presiding.

Present 20	Absent 4
Mayor Rogers Anderson	Mayor Kevin Brooks
Mayor Paige Brown	Mr. Calvin Clifton
Commissioner Jim Bryson	County Clerk Mary Gaither
Senator Heidi Campbell	Senator Bo Watson
Councilman Chase Carlisle	
Representative John Crawford	
Mayor Terry Frank	
Representative Patsy Hazlewood	
County Executive Jeff Huffman	
Representative Harold Love Jr.	
Senator Jon Lundberg	
Comptroller Jason Mumpower ¹	
Representative Antonio Parkinson	
Mr. Jeff Peach	
Mayor Bob Rial	
Commissioner Deniece Thomas	
Mayor Larry Waters	
Representative Ryan Williams	
Senator Ken Yager	
Senator Jeff Yarbro	

¹ Dana Spoonmore represented Comptroller Jason Mumpower

1. Call to Order and Approval of the Minutes

Chairman Ken YAGER called the meeting to order at 1:04 p.m. Before requesting approval of the January 2023 meeting minutes, Chairman YAGER informed the members that he would need to leave the meeting early because of a commitment in his district, but that without objection, Mayor Terry Frank would serve as acting chairman in his stead. There being no objection, Chairman YAGER next called for a motion to approve the minutes. Senator Jon LUNDBERG moved approval and Senator Heidi CAMPBELL seconded the motion, which passed unanimously.

2. Commission and Staff Update

Executive Director Cliff LIPPARD reminded the members that at the last meeting, Mayor Bob Rial and other members expressed an interest in the Commission studying several issues concerning the purchase by and delivery to local governments of rolling stock, to include fire trucks, ambulances, police cars, and buses. He said that the proposed study would also review mileage limitations, required inspections, and mandatory replacement of local government rolling stock. After Dr. LIPPARD reminded the members that an affirmative vote of seventeen members is required to add a study requested by a member to our work program, Chairman YAGER invited Mayor Rial to address the rest of the members about his request.

Mayor RIAL said that delays in purchasing rolling stock have only gotten worse since the COVID-19 pandemic and that the importance of vehicles like snow clearing equipment and ambulances was underscored by the recent bad weather. He said that current backlogs for large service vehicles averages 18 months and that there are still some pending deliveries going back to 2021. Chairman YAGER moved that the study be added to the TACIR work program; Senator LUNDBERG seconded the motion, and it was approved unanimously.

Next, Dr. LIPPARD told the members about several staff milestones, to include Senior Research Director Leah Eldridge celebrating 25 years of state service, Research Director Jennifer Barrie celebrating 10 years, and Research Manager Tyler Carpenter completing TACIR's rigorous training pyramid. Finally, Dr. LIPPARD introduced the newest staff member, Research Associate Hannah Newcomb.

3. Tennessee Valley Authority Payments In Lieu of Taxes—Annual Report for Approval.

Research Associate Jennifer ARZATE presented the Commission's annual report on the Tennessee Valley Authority's (TVA) payments in lieu of taxes for the Commission's approval. The report finds that for purposes of monitoring compliance with Public Chapter 1035, Acts of 2010, it would be beneficial for Tennessee Department of Revenue staff to request that TVA provide the department with a list of distributors that are purchasing power from non-TVA sources. There are no recommended actions to be taken by the General Assembly.

Chairman Ken YAGER moved approval of the report, which was seconded by Commissioner Jim BRYSON. The Commission approved the report unanimously.

4. Annual Report on Tennessee's Public Infrastructure Needs—Final Report for Approval

Research Manager Tyler CARPENTER presented the Commission's annual report for approval. Mr. CARPENTER said the report documents \$68 billion of needed infrastructure improvement projects, which were in development during the five-year period of July 2022 through June 2027.

Representative Ryan WILLIAMS asked whether reported transportation needs are flat year-over-year because there is more revenue budgeted for the current fiscal year or because the state is not growing. Mr. CARPENTER said the completion of existing projects is the biggest driver of the decrease in reported transportation needs and the report is based on needs reported as of July 1, 2022, and does not take into consideration the current fiscal year. In response to a question from Senator Heidi CAMPBELL about whether inflation is the main reason for the cost increase in the inventory, Mr. CARPENTER said that, while he cannot pinpoint the exact reason for the cost increase, the biggest drivers are increases in health, safety, and welfare and education needs, and figure 1 adjusts previously reported needs for inflation back to 2007.

Mayor Terry FRANK moved approval of the report and Representative WILLIAMS seconded the motion, which passed unanimously.

5. Water/Wastewater—Panel

Research Associate Madison MOFFITT, introduced panelists with knowledge of Tennessee's wastewater systems, their operation, and financing. Panelists included

- Brooxie Carlton, assistant commissioner of community and rural development, Tennessee Department of Economic and Community Development;
- John Greer, program director, Tennessee Association of Utility Districts;
- April Grippo, deputy director, Technical and Permitting Programs, Division of Water Resources, Tennessee Department of Environment and Conservation;
- Vena Jones, state water infrastructure grants manager, Division of Water Resources, Tennessee Department of Environment and Conservation; and
- Steve Wyatt, utility operations consultant, Municipal Technical Advisory Service.

Assistant Commissioner Brooxie CARLTON said the Tennessee Department of Economic and Community Development (ECD) provides various funding opportunities for water and wastewater systems, which include both state and federal sources of revenue. Their Infrastructure Planning Grant is ECD's newest program. It has received 90 applications and there is \$10 million to distribute. Site Development Grant programs are state funded, which is focused on providing water and sewer to industrial sites.

They also offer federal grants as well. Appalachian Regional Commission (ARC) and Delta Regional Authority (DRC) grants—federally funded programs administered by ECD for Tennessee—are used to fund water and sewer projects. ECD also provides funding through the

federal Community Development Block Grant (CDBG) program. This program provides approximately \$30 million a year to communities—with historically most of the money going to water and sewer. A lot of repair and replacement is done with that funding. ECD partners with the Tennessee Association of Utility Districts (TAUD), the Tennessee Comptroller's Office, and the Tennessee Department of Environment and Conservation (TDEC) to ensure that ECD's work is aligned with their priorities.

Mr. John GREER said that TAUD works to support their utility members in the state and provides technical assistance to utilities. There are two main types of water and wastewater utilities in Tennessee: public and private. Publicly owned utilities include utilities operated by cities, counties, authorities, and utility districts. Most of the city or county owned utilities are run by the local governing body. A few local governments have appointed boards. Utility district and utility authority boards are appointed by county mayors in almost every district and authority in the state. Appointments are made every three to four years. Privately owned utilities include utilities operated by organizations like investor-owned associations, homeowners' associations (HOAs), and property owners' associations. Mr. GREER said that public utilities are regulated by the Tennessee Board of Utility Regulation (TBOUR). They ensure that utilities are self-sufficient financially and are not losing too much water. Private utilities are regulated by the Tennessee Public Utility Commission (TPUC).

Ms. April GRIPPO said that TDEC regulates municipal and industrial wastewater systems. They require permits for anyone discharging pollutants from pipes or man-made ditches into the state's surface waters. The permits limit the amount of pollutants that may be discharged. A new wastewater system's permitting process can take 6 to 12 months. TDEC works closely with any new wastewater system on design requirements of the treatment facility as well as the permit limits that will be required.

There are several challenges faced by wastewater utilities in the state, which include accommodating growth and maintaining existing systems. She said that infiltration and inflow, caused by stormwater and groundwater entering broken sewer pipes, is increasing because of more intense storms and aging systems. This leads to overloaded systems, causing backups into buildings and overflows into streets. The state's rapid development is increasing demand on these systems, exacerbating the overflow problem. Maintenance issues and a lack of funds are significant problems. Another challenge is the shortage of qualified wastewater operators. Wastewater utilities are having trouble recruiting, hiring, and retaining staff. Regionalization may be a solution for some cities. With regionalization, they will be able to share technical staff and the costs of running the systems.

Ms. Vena JONES said there are different infrastructure funding assistance programs at TDEC in the Division of Water Resources, which includes American Rescue Plan (ARP) funds to address critical needs. In 2021, the Governor awarded \$1.35 billion in ARP funds received by the state to TDEC for water and wastewater infrastructure projects. She said that they wanted to make good use of the funds. They used the existing Tennessee infrastructure scorecard to help identify where the most critical needs were. The scorecard allows utilities to identify what their most critical needs are. Over \$477 million in ARP funds and \$254 million in state revolving funds have been awarded over the past three fiscal years. They created a grant program to help

utilities create an adequate asset management plan. The state revolving fund program intends to direct the funding they have to critical needs over the next three to five years, and plan on investing close to \$250 million a year.

Mr. Steve WYATT said that Tennessee has an aging wastewater system and a disparity in the wastewater treatment techniques used by the utilities. He said the more advanced technological processes are seen in the larger systems that have the economic base to fund it. The smaller systems don't have the economic base and that is an issue. There are quite a few systems that don't have centralized sewer collection and treatment and may not be able to get it because of cost. Some utilities are prevented from adding new sewer connections to their systems because of chronic sewer overflows. Every five years a wastewater treatment plant gets a new permit and the conditions of how they operate can change based on what changed at the Environmental Protection Agency (EPA). These changes can force a utility to add more wastewater treatment processes at the plant that can cost them money. It can also be difficult for wastewater utilities to hire licensed wastewater operators. Tennessee only has around 3,000 licensed wastewater operators.

Chairman Ken YAGER asked for ideas on how to handle situations where a solvent utility district that has merged with a financially insecure district must list the financially insecure district's assets on its financial statement. This can potentially cause financial difficulties unless the district increases its rates to cover the depreciation. Mr. GREER said that depreciation is an accounting standard that the state of Tennessee follows because it has a perfect bond rating. The state doesn't want to hurt its bond ratings by doing something that hurts the accounting procedures and policies at the local level. The TBOUR in the Comptroller's Office has a fund designed to financially assist utilities when they merge. The fund can provide cash to help fix the utilities. TBOUR can examine the depreciation issue when a utility merges and uses TBOUR funds. Even when utilities are referred for financial distress, the board may not increase their rates until the merger process is evaluated. Following the response to his question, Chairman Yager turned the gavel over to Acting Chairman Mayor Terry Frank.

In response to Councilman Chase CARLISLE's question about what percentage of wastewater utilities have enterprise funds that are specifically set up to deal with future capital improvements and maintenance, Mr. GREER said that they are all enterprise funds under the law. For most utilities there is not a standard percentage that they have to set aside but most have some type of reserve fund for infrastructure or they will now that TDEC is working with utilities to help them develop adequate asset management plans.

Councilman CARLISLE asked for the panel's thoughts on a regional compact between Arkansas, Mississippi, and Tennessee, which would allow for more federal funding to flow in. Ms. JONES said she would think about how they are going to make sure they don't ignore or forget the most vulnerable communities like the rural communities in the shadow of BlueOval. They have seen issues with shared services across state lines and she knows that some of Tennessee's rural communities in those areas struggle with equitable services. Ms. GRIPPO said TDEC's focus on regionalization has been amongst Tennessee communities and offered to ask the Association of Clean Water Administrators—of which she is a part of—about their interstate organizations. Councilman CARLISLE said it is more about seeking more federal

funding because you are lobbying together. If you combine utilities into regional units, you have to think about how you lobby for more resources for them and not simply place that burden on the back of Tennessee bond holders.

County Executive Jeff HUFFMAN asked what it means when a system has an enforcement order against them and how many systems currently have enforcement orders. Ms. GRIPPO said that she did not have information about the number of enforcement orders with her, and said that TDEC usually works through notices of violation and works with the systems to bring them into compliance. When a system gets an enforcement order, it's usually because the system wasn't able to address its problems in a timely fashion. TDEC sometimes issues orders because of threats of a lawsuit from a third party. The enforcement orders typically have time frames and goals and can help a system prioritize. Systems have mentioned that it is helpful to have an order to get action from their board. Enforcement orders are a last resort. County Executive HUFFMAN said that programs like ARP are helpful. However they are not enough to alleviate the struggles of small municipalities in the long run.

In response to Senator Jeff YARBRO's questions about the state's long-term strategic plans regarding wastewater systems and what could be done to strengthen their authority and capacity, Ms. JONES said that no one state agency is responsible for statewide infrastructure planning. TDEC is primarily a regulatory agency and the funding they receive is used to support regulatory requirements to ensure a minimum level of service. There are discussions about statewide infrastructure planning among various agencies and she said the Commission should consider helping create a statewide strategic infrastructure plan. Senator YARBRO said that he would value hearing about other states that have implemented statewide strategic infrastructure plans. Mr. GREER said that they are in the process of creating the first countywide utility plan in the state in Lawrence County.

Representative Harold LOVE asked Ms. Jones to consider, in future planning, how much more of the ARP funds TDEC could access. Ms. JONES said that TDEC has obligated 90% of the ARP funding. She said that \$996 million was obligated for non-competitive grants, and \$200 million has been awarded in competitive grants and special state strategic projects like wastewater regionalization in West Tennessee. Some of the money was used to develop transparent data dashboards to help citizens understand where the infrastructure needs are and where the money is going. They give entities 20% to 50% loan forgiveness, especially in disadvantaged communities.

Senator Heidi CAMPBELL asked about the conditions of the state's water because the Tennessee Attorney General recently filed a lawsuit against companies for PFAS [per- and polyfluoroalkyl substances] contamination in the water in northeast Tennessee. She also asked what actions are being taken to address these concerns and improve water quality. Mr. GREER said the Tennessee Attorney General and the National Rural Water Association have filed lawsuits and this has resulted in a settlement for utilities to receive funds to treat PFAS. Tennessee has been fortunate not to have levels as high as other states. The technology to remove these chemicals can be simple and implemented at smaller plants. TDEC, TAUD, and the Municipal Technical Advisory Service (MTAS) have been teaching classes on how to test for

all the variants. Tennessee is ahead of the curve compared to most places. Senator CAMPBELL said the state should ban PFAS and she is running a bill to do that.

Mayor Larry WATERS asked how package systems, small pre-manufactured wastewater treatment systems, fit into the broad discussion on wastewater, especially when there is system failure. Ms. GRIPPO said that TDEC struggles with compliance of package plants. They have significant difficulties with these systems, particularly with regards to operation and enforcement. There are issues with operators who may not conduct the required inspections. TDEC is under pressure to potentially relax regulations regarding package systems to facilitate developments in rural areas. Ms. JONES said that consolidation and regionalization are some answers to solve capacity and cost issues; making more smaller systems is going in the opposite direction. Forty percent of the municipal systems are aging and failing with a 25% non-compliance rate. They struggle to maintain technical, managerial, and financial capacity. It's right to be concerned about the small systems. Mr. GREER said that some wastewater systems are able to effectively manage package systems. The Consolidated Utility District in Rutherford County has been able to manage 73 package systems and they don't have issues. If a wastewater utility has a significant level of technical ability, they can add a small package system to their system. Mayor WATERS said that there have been locally adopted regulations to address some of these concerns, and that package plants may be part of the solution if there is a targeted approach to avoid future issues.

In response to Mayor Rogers ANDERSON question about how package systems are bonded, Mr. GREER said that bonding would be up to the owners unless there is a mechanism that allows county governments to permit and bond those. Mayor ANDERSON said they tried that and the state did not like it. Mr. GREER said then it would be whether there is any type of bonding tied to their permit. Ms. GRIPPO said there is a minimal financial security requirement.

County Executive HUFFMAN asked whether there is one type of package system that works better than others. Mr. GREER said the Consolidated Utility District (CUD) has their own preferred system and model that has been proven to work, but he does not know of any one standard system that utilities use. Local government utilities have the authority to dictate to developers the type of system they want them to use and adhere to certain specifications. Developers go into an area and say this is what we're doing and local governments don't realize they can say no. The local governments should be involved from the beginning to make sure what is then dedicated over is what is needed for their system. Mayor WATERS said the state should look into what the best technology is and how to best assure that these systems continue to operate.

Acting Chairman Mayor Terry FRANK asked whether the money in the TBOUR fund could be used for voluntary mergers. Mr. GREER said he was unsure whether the money in the fund could be used for voluntary mergers because the fund is new and has not been used yet. Acting Chairman FRANK said if the state were to offer more incentives, they might see more mergers. Ms. JONES said that TDEC has awarded \$100 million in regionalization grants and provides infrastructure planning and design grants for regionalization, consolidation, and loan

forgiveness. They only go up to 50% loan forgiveness but with a high emphasis on regionalization and consolidation through the state revolving fund program.

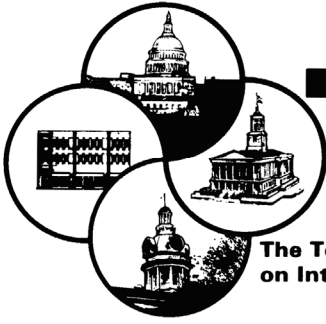
In response to Acting Chairman FRANK's question about what the gold standard for governance is for wastewater systems, Ms. JONES said municipalities commonly struggle more often than utility districts who operate more like a business. TAUD does a good job ensuring all utility board members receive updated training and education routinely. Mr. GREER said that governing board members of utility districts and municipal wastewater systems are required by law to have continued training—12 hours of training their first year followed by 12 hours every three years. TAUD provides manuals to utility district board commissioners. MTAS does the same for governing board members of municipal wastewater systems.

Acting Chairman FRANK asked what their plans were in regard to the infrastructure scorecard. Ms. JONES said they intend to make a new version of the scorecard from what they've learned with the ARP program. They have talked with ECD and other groups about making the scorecard more universal and help their systems through meeting all their critical needs. TDEC intends to use the scorecard for the state revolving fund program. Ms. CARLTON said that ECD is looking at how they can make the scorecards a requirement on some of their grant applications to ensure it continues to be up-to-date and is useful for communities.

6. Fiscal Federalism Website—Update

Research Associate Carly VAN SYCKLE presented an update on the TACIR Fiscal Federalism web pages. She said staff are updating the web pages to present the most recently available federal fiscal years and organizing the data into a new format with more categories and subcategories. Acting Chairman Mayor Terry FRANK said the amount of money from the Department of Energy coming into Roane County is not all necessarily going to Roane County or municipal governments and asked if a citizen saw a large amount, would there be a way to indicate that the money isn't all going to local governments. Ms. VAN SYCKLE said that as part of the website revision, staff are adding notes that will explain what is exactly meant by obligations. Commissioner Jim BRYSON asked why TACIR was working with 2015 data. Ms. VAN SYCKLE said that the 2015 data was from the current Fiscal Federalism website and that the update will have data up to 2022. She said the revision of the web pages will make it easier to consistently update the website with the most recently available data.

Acting Chairman FRANK adjourned the meeting at 3:07 p.m.



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**MINUTES OF THE
TENNESSEE ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS**

January 26, 2024

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room III of the Cordell Hull Building at 8:40 a.m., Acting Chairman Mayor Terry FRANK, presiding.

Present 13	Absent 11
Mayor Rogers Anderson	Mayor Kevin Brooks
Mayor Paige Brown	Commissioner Jim Bryson
Senator Heidi Campbell	Councilman Chase Carlisle
Representative John Crawford	Mr. Calvin Clifton
Mayor Terry Frank	County Clerk Mary Gaither
County Executive Jeff Huffman	Representative Patsy Hazlewood
Representative Harold Love Jr.	Senator Jon Lundberg
Comptroller Jason Mumpower ¹	Representative Antonio Parkinson
Mr. Jeff Peach	Senator Bo Watson
Mayor Bob Rial	Representative Ryan Williams
Commissioner Deniece Thomas	Senator Ken Yager
Mayor Larry Waters	
Senator Jeff Yarbro	

¹ Dana Spoonmore represented Comptroller Jason Mumpower

7. Broadband Internet—Update

Director of Policy Matt OWEN presented an update on the expansion of broadband coverage in Tennessee and the effect of state tax incentives on coverage expansion in response to a request from Representative Hazlewood. He said approximately 94% of residential locations in Tennessee have access to broadband at speeds of at least 25 megabits per second download and 3 megabits per second upload, according to the latest Federal Communications Commission (FCC) data; moreover, according to data from the state's broadband grant programs, the state continues to make progress toward expanding coverage in unserved areas. The effect of sales tax exemptions on coverage expansion is not being tracked by the state because the exemptions are not conditioned on broadband providers expanding coverage, but Dr. OWEN said it is anticipated that at least some of the savings to providers resulting from these exemptions is being reinvested in coverage expansions in Tennessee.

Mayor Larry WATERS said his community continues to have difficulty expanding coverage to its remaining unserved areas. One problem is that some areas are reported as having broadband despite that not always being the case, and in other cases, service is unreliable. Because these areas are reported as being served, it can affect eligibility for grants that could be used to expand coverage. He asked whether it is still the case that if one home in a census block has access to broadband the entire census block is reported as being served. Dr. OWEN said that the FCC no longer uses the census-block approach to determine broadband access, in part because this approach had the tendency to overstate coverage. The FCC's new approach is a two step process in which the FCC, through a vendor, creates a map of all residential and business locations followed by providers reporting for each location whether they offer Internet service, the speed of the service they provide, and the technology used to provide it.

In response to Mayor WATERS' question about whether communities could do anything to obtain more grant funding to help expand broadband to unserved and underserved areas, Dr. OWEN said local governments can challenge the accuracy of data used to determine whether communities are unserved or underserved and, therefore, eligible for broadband grant funding and recommended that local officials contact grant staff at the Tennessee Department of Economic and Community Development's (ECD) broadband office for additional information on grants and the process for challenging coverage data.

Senator Jeff YARBRO asked whether staff had completed any follow-up research on efforts to facilitate broadband adoption in addition to its research on coverage expansion. Dr. OWEN said staff did not prepare an update on broadband adoption, but there are a variety of efforts to improve broadband adoption in communities around the state, and Commission staff participate on ECD's digital opportunity taskforce, which has worked to identify barriers to broadband adoption and solutions to overcome those barriers that either are or could be implemented in Tennessee. In response to Senator YARBRO's question about whether lack of broadband adoption follows lack of access, Dr. OWEN said he would check whether data on broadband adoption allows for that comparison. [Note: According to the latest five-year estimate from the American Community Survey, 86% of households in Tennessee have a broadband subscription (this includes wired service, satellite service, and cellular data plans); but if one looks only at wired broadband service, only 69% of Tennessee households have a

subscription.] Senator YARBRO said efforts to improve broadband adoption along with access can be cost-effective compared to approaches that focus on access alone, and Dr. OWEN said that federal broadband programs, including the Broadband Equity Access and Deployment program, contain funding to support adoption.

In response to Senator Heidi CAMPBELL's question about whether grants from ECD's broadband programs have been awarded to for-profit providers, non-profit cooperatives, or municipal utilities, Dr. OWEN said all three types of providers have been awarded grants, and that staff would follow up with ECD to clarify the number of awards by provider type. [Note: Based on Commission staff analysis of the 188 grants awarded from 2018 through 2023, electric cooperatives received 62 grants, for-profit providers received 58 grants, telephone cooperatives received 41 grants, and municipal utilities received 27 grants. This excludes one project that was awarded funding but had its grant contract canceled prior to any work being completed.]

County Executive Jeff HUFFMAN asked how Tennessee compares to other states based on access to broadband that would be considered affordable to households earning a median income. Dr. OWEN said staff had not collected data comparing the affordability of broadband across states but that he hadn't seen anything to suggest affordability issues would be different in Tennessee than in other states. [Note: A 2023 analysis of Census data conducted by researchers at the Pew Charitable Trusts shows that rates of home broadband adoption in Tennessee are similar to other southeastern states. Within Tennessee, adoption rates vary by county and are generally higher in counties with higher median incomes. This pattern is similar to patterns in other states both in the southeast and nationally.]

In response to Acting Chairman Mayor Terry FRANK's question about whether local government funding is included in the matching funds reported for grantees in ECD's grant data, Dr. OWEN said that local government funding could count toward grantee matching requirements for some of the federally funded grant rounds. Acting Chairman FRANK said it would be good for the General Assembly to know what local governments are doing to help fund broadband expansion. [Note: Commission staff followed up with ECD to determine whether it tracks the amount of local government funding included in the matching funds reported by grantees. ECD staff said the department doesn't track this information.]

Acting Chairman FRANK asked whether staff are recommending that the state begin tracking whether its sales tax exemptions related to broadband are resulting in coverage expansions. Dr. OWEN said that staff are not making a recommendation specific to the sales tax exemptions, and the lack of data was noted only to highlight why staff could not be more responsive to Representative Hazlewood's request. In response to Acting Chairman FRANK's question about whether the state's sales tax exemptions apply to equipment purchased in Tennessee but used in other states, Dr. OWEN said he would defer to the Tennessee Department of Revenue for specifics about the exemptions' limitations. [Note: Tennessee Department of Revenue staff clarified that nothing in statute requires the equipment subject to the exemptions to be used in Tennessee.]

8. Judicial Redistricting – Background and Scenarios

Senior Research Director Leah ELDRIDGE presented a summary of reports on judicial redistricting in Tennessee and other states' efforts at judicial redistricting. She also talked briefly about the Tennessee law that requires the Comptroller of the Treasury to annually update a judicial weighted caseload study that is to be used in determining the need for creation or reallocation of judicial positions before turning to Research Manager Bob Moreo for a description of the scenario analysis.

Mr. MOREO said staff analyzed the last three years of weighted caseload data published by the Comptroller's office to determine whether there were statistical relationships that could be applied to more recent unweighted caseload and population data available at the county level. He said staff used that analysis to estimate how weighted caseload and judges might be distributed under redistricting options proposed by the Tennessee Trial Judges Association. To illustrate how weighted caseload methodology can be used to allocate judicial resources without redrawing district boundaries, Mr. MOREO also showed how staff applied the same analysis to estimate workload in the state's current judicial districts.

Representative John CRAWFORD asked why staff chose to limit the data it used to make its analysis. Mr. MOREO said that three years was a manageable amount of data for staff to make reasonable estimates within the given amount of time for the project. Executive Director Cliff LIPPARD added that they were the most current data available, which was relevant for estimating current caseloads for the redistricting proposals. Representative CRAWFORD asked whether the staff recommended the judicial redistricting proposals. Ms. ELDRIDGE said that the staff did not feel qualified to make a recommendation because they had only studied the issue for three weeks. She said they might want to consider updating the case weights that are to be used in the weighted caseload reports for judges, district attorneys, and public defenders.

Senator Heidi CAMPBELL asked for clarification on the comments Ms. Eldridge made earlier about the 21st Judicial District. Ms. ELDRIDGE said that, in their 2019 report, the Advisory Task Force on the Composition of Judicial Districts found that because of demographic changes the 21st Judicial District should be realigned. People from Hickman, Lewis, and Perry counties in the 21st District stated that they wanted to be separated from the 21st Judicial District. These three counties separated from the 21st Judicial District and formed the 32nd Judicial District in 2022. Senator CAMPBELL asked whether the rules regarding redistricting were discretionary. Ms. ELDRIDGE said that she couldn't answer the question because they had been studying the topic for a short period of time. [NOTE: As a follow-up response to Senator Campbell's last question, Article VI, Section 1 of the Tennessee Constitution states that "The judicial power of this State shall be vested in one Supreme Court and in such Circuit, Chancery and other inferior Courts as the Legislature shall from time to time, ordain and establish." Tennessee courts have held that the state constitution gives the General Assembly the authority to determine the number of courts and their jurisdiction. Tennessee's judicial districts are established in Tennessee Code Annotated Section 16-2-506.]

9. House Joint Resolution 139 (Housing Affordability, Impact Fees, and Developments Taxes) – Draft Report

Senior Research Associate Michael STRICKLAND presented the draft report for review and comment. The report was prepared in response to House Joint Resolution 139 by Representative Sparks, which requested a study on housing affordability and the factors affecting it. Dr. STRICKLAND outlined the report's six recommendations and one additional finding. Reiterating two recommendations from previous Commission reports, the draft report recommends authorizing all local governments to establish land banks and having the Department of General Services include links to local governments websites listing surplus real property on its own website. Additionally, the draft report recommends that the state incentivize local governments to adopt zoning reforms by sharing a portion of realty transfer and mortgage tax revenues with those that met a minimum number of specified zoning criteria, and that, to protect existing property owners from possible property tax increases, property in areas that see rezoning could continue to be assessed under its original zoning. Furthermore, a portion of the revenue from the realty transfer and mortgage taxes could also be allocated to a housing trust operated by the Tennessee Housing Development Agency to make low- or zero-interest construction loans for affordable housing development, and a separate portion could be reserved by the state to use for infrastructure projects in the event of economic downturns to guard against lost construction employment. The report also found that the city of Charlotte, North Carolina, is currently engaged in a new program to rehabilitate existing affordable housing, but that because of differences in state laws on local government financing and bonds, it is unclear how best to adapt such a program to Tennessee.

Commissioner Deniece THOMAS asked whether other states have programs like North Carolina's. Dr. STRICKLAND said that the program is still quite new, and staff has not identified any comparable programs, but that it is an issue that the Commission and staff could continue to monitor.

Mr. Jeff PEACH said that the program in Charlotte appears interesting and worth further consideration. He also said that zoning tools such as planned unit developments and, among those, planned residential developments, are already in place to help with building additional housing and that incentives may be better suited for those engaged in homebuilding.

Mayor Larry WATERS said that Sevier County has a task force examining zoning reforms that might be used for increasing housing supply, but he asked for clarification on the vacancy rate in Sevier County, as the data shown in an appendix of the report appeared different from what a recent study by the county had found. Dr. STRICKLAND said that there are multiple measures of vacancy, with the report showing only the overall vacancy rate; a more specific measure of homeowner vacancy, however, is consistent with the vacancy rate that Sevier County found in its own study, and Dr. STRICKLAND said that the appendix would be expanded for the final report with additional data.

Senator Jeff YARBRO asked whether there are any restrictions on the two recordation taxes referred to in the report's recommendations and whether any other states have adopted an incentivization approach such as was outlined in the report. Dr. STRICKLAND said that a portion of the realty transfer tax is earmarked, but the majority of the revenue from it and the

mortgage tax are not earmarked. As to incentive-based programs for zoning reform in other states, he said that legislative action on housing has only ramped up within the past several years, and most other states have pursued some type of preemption, so examples of incentive-based programs are few. Senator YARBRO said he appreciated a non-preemptive approach. Executive Director Cliff LIPPARD added that the menu of zoning reforms provided in the report was based in part on the example of Montana, but that state has still chosen to apply them through a form of limited mandate.

Senator Heidi CAMPBELL asked whether staff had looked at the effect on housing inventory of those moving into Tennessee from out-of-state. Dr. STRICKLAND said that it was a concern raised by a number of stakeholders in discussions with staff, but that it is difficult to determine what effect it might have.

Mayor Paige BROWN said that one growing issue is investors who own multiple properties but may be paying property taxes at the residential assessment rate, rather than the commercial rate as required by law, and that identifying those properties so they could be assessed correctly is a challenge for property assessors. She asked whether there might be any means to better control that. Dr. STRICKLAND said that staff had spoken to property assessors, and that they had reported that this is an issue, but there did not appear to be a particular method for resolving it. Senator CAMPBELL said that the ability of investors to outcompete individual homebuyers for what property is available is a problem, and that solutions are needed to address the effects of institutional investors on the housing market.

Commissioner THOMAS asked whether staff has looked into the loss of farmland in the face of housing demand. Dr. STRICKLAND said staff has considered the issue, and some researchers elsewhere have been studying the loss of farmland in Tennessee, with some stakeholders also advocating for zoning reform partly as a way of directing housing towards infill development and away from the use of farmland.

Acting Chairman Terry FRANK asked regarding an earlier reported estimate that approximately 25% of the cost of housing can be attributed to some form of regulation, and she asked whether that might include right-of-way dedications. Dr. STRICKLAND said that the study from which that figure derives did consider right-of-way dedications as a cost. She next asked whether the state has any legal limits on what local governments might charge for permits, noting that Florida has limits of that type. Dr. STRICKLAND said he was not aware of any such limitations in statute. Acting Chairman FRANK suggested that it might be worth considering something along those lines, noting that planning review delays might be detrimental to affordability. She then suggested looking further into manufactured housing and what lessons it might provide for affordability. She also requested the inclusion of some additional data on homelessness, as she said that many counties are wrestling with the problem.

Mr. PEACH asked whether staff has looked at how much impact fees contribute to the overall percentage of housing cost, saying that in his observations it usually amounts to no more than 1% of the cost of a home. Dr. STRICKLAND said that based on the median price for new homes in Tennessee, typical impact fees might equal about 1% of the total cost, though it could vary depending on the exact jurisdiction.

Other Business

Acting Chairman Frank adjourned the meeting at 9:55 a.m.