



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



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226 Anne Dallas Dudley Blvd., Suite 508  
Nashville, Tennessee 37243-0760  
Phone: (615) 741-3012  
Fax: (615) 532-2443  
www.tn.gov/tacir

## ***MEMORANDUM***

**TO:** Commission Members

**FROM:** Cliff Lippard *Cliff*  
Executive Director

**DATE:** 29 May 2019

**SUBJECT:** Fiscal Year 2018-19 Accomplishments

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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.



- 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 H<sub>2</sub>O: 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/>)