

# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



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

May 29, 2019

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room II of the Cordell Hull Building at 1:04 p.m., Acting Chairman Larry WATERS presiding.

| <b>Present 20</b>                      | <b>Absent 3</b>           |
|--|---------------------------|
| Mayor Rogers Anderson                  | Mayor Tom Bickers         |
| Mayor Buddy Bradshaw                   | Representative Susan Lynn |
| Mayor Kevin D. Brooks                  | Senator Bo Watson         |
| Representative Mike Carter             |                           |
| Mr. Calvin Clifton                     |                           |
| Representative John Crawford           |                           |
| Deputy Commission Paula Davis          |                           |
| Mayor Brent Greer                      |                           |
| County Executive Jeff Huffman          |                           |
| Representative Harold Love Jr.         |                           |
| Senator Jon Lundberg                   |                           |
| Mayor A. Keith McDonald                |                           |
| Representative Antonio Parkinson       |                           |
| Mr. Jeff Peach                         |                           |
| Senator Katrina Robinson               |                           |
| Vice Mayor Kay Senter                  |                           |
| Mayor Larry Waters                     |                           |
| Comptroller Justin Wilson <sup>1</sup> |                           |
| Senator Ken Yager                      |                           |
| Senator Jeff Yarbro                    |                           |

<sup>1</sup> Lauren Spires represented Justin Wilson.

## **1. Call to Order and Approval of the Minutes**

Acting Chairman Larry WATERS called the meeting to order at 1:04 p.m., dispensed with the calling of the roll, and requested approval of the minutes of the January 2019 meeting. Representative Mike CARTER moved approval, and Senator Jon LUNDBERG seconded the motion, which passed unanimously.

## **2. Commission and Staff Update**

Executive Director Cliff LIPPARD began the Commission update by commemorating the life of longtime member Trustee Charlie Cardwell, who passed away on May 13, 2019. Dr. LIPPARD brought to the members' attention a resolution honoring Trustee Cardwell for his many years of public service.

Dr. LIPPARD next asked the Commission to welcome its two newest private citizen members, Mr. Calvin Clifton, a business development manager from Kingsport, and Mr. Jeff Peach, the town attorney for Smyrna. Dr. LIPPARD also asked the members to thank former private citizen members Ken Young and Christi Gibbs for their service, which ended in March.

Next, Dr. LIPPARD asked the members to join him in congratulating former member Iliff MCMAHAN on his recent retirement from the State of Tennessee. Research Manager Mark MCADOO read a resolution honoring Mr. MCMAHAN's service, and then Mr. MCMAHAN spoke, thanking the members and describing how pleased he had been to serve on the Commission.

Dr. LIPPARD then moved to staff updates, acknowledging that Senior Research Associates Jennifer Barrie and Bob Moreo both recently graduated from the State of Tennessee's Boards and Commissions Leadership Academy, the comprehensive training program designed to nurture current and future leaders among the state's small, independent agencies. He concluded staff updates by asking the members to welcome the Commission's two summer interns, Bree'ara Murphy and Francisco Mackin-Plankey, both of whom are rising seniors at Vanderbilt University.

Following the completion of the staff updates, Acting Chairman WATERS opened the floor for nominations for chair. Senator Ken YAGER nominated Representative Mike CARTER, and once seconded the members adopted the nomination by acclamation.

After taking a moment to thank the Commission and to comment on the work and reputation of the Commission, Chairman CARTER opened the floor for nominations for vice chair.

Representative Antonio PARKINSON nominated Representative Harold LOVE; Senator Katrina ROBINSON seconded. Senator Jon LUNDBERG raised a point of parliamentary inquiry, asking if there were any limitations on who could hold the office of vice chair. Dr. LIPPARD responded that any member could hold that office, but that the tradition has been that it be filled by one of the Commission's non-legislative members. County Executive Jeff HUFFMAN added that the convention has also been that the vice chair be one of the members representing local government, and that the office has rotated between representatives of city government and representatives of county government. Representative LOVE, affirming the

spirit of TACIR's representative structure, asked that his nomination be withdrawn, to which Representative PARKINSON agreed. Representative John CRAWFORD then nominated Mayor Kevin BROOKS for the office of vice chair. Once seconded, the nomination was adopted by acclamation..

### **3. Fiscal Year 2018-19 Accomplishments**

Deputy Executive Director Melissa BROWN summarized the Commission's major accomplishments for the past fiscal year, which will be incorporated into the biennial report for fiscal years 2018-19 and 2019-20.

### **4. Legislative Update**

Senior Research Associate Nathan SHAVER reviewed legislative action during the first session of the 111th General Assembly on issues related to Commission studies. The legislature passed or considered legislation on several issues related to the Commission's work, some dealing directly with findings and recommendations from commission reports. Mr. SHAVER noted the laws that were passed based on the Commission's recommendations from its reports regarding criminal statutes of limitations and internet sales tax.

Mr. SHAVER said that four new Commission studies have been requested. The General Assembly passed the Tennessee Right to Shop Act, which, among other things, directs the Commission to perform a study of online insurance shopping incentives and report its findings by December 2020. Legislative committees requested two additional Commission studies: one relating to community resilience and extreme weather and one concerning the local government procurement process and online bidding. Mr. SHAVER said that the final study request came via a letter from Senator Dickerson regarding illegal tire dumps in Tennessee.

In response to Representative CRAWFORD's question regarding the process for receiving new study requests, Dr. LIPPARD explained how studies are accepted for study by the Commission. He said studies directed by a public chapter take the highest priority, followed by those requested by legislative committees, and then those by individual legislators or Commission members. In the past, Commission members have voted to approve study requests based on the availability of resources and staff capacity to complete the requests.

Mayor MCDONALD asked about the due dates for the online bidding and the community resilience studies. Mr. SHAVER explained that no due dates were specified when the TACIR studies were requested. Dr. LIPPARD added that for the online bidding study, the committee requested it as a "summer study" at TACIR, which would imply a January due date, while the community resilience study has a more flexible due date. [Note: The research plans provide that the final report for the online bidding study is scheduled for the January 2020 meeting, and the final report for the community resilience study is scheduled for the spring 2020 meeting.]

Vice-Mayor SENTER asked whether the Tennessee Right to Shop Act included any educational components that would help citizens become aware of the program. Mr. SHAVER responded that he was not aware of an educational component, but that he would follow-up with her with a more specific answer. [Note: The Tennessee Right to Shop Act requires that the insurer

provide only annual notice to enrollees of the right to obtain information and a description of how to earn any incentives.]

In reference to House Bill 853 by Carter, which was discussed in the legislative update, Mayor ANDERSON asked whether the bill contemplated revisiting the 20-year growth plans from Public Chapter 1101, Acts of 1998. Chairman CARTER, the bill sponsor, responded that he took the bill off notice at the request of the person who brought it to him and that the bill, which was very limited in scope, did not address the 20-year period from Public Chapter 1101.

## **5. Work Program Amendment and New Research Plans**

Deputy Executive Director Melissa BROWN presented four amendments to the fiscal year work program for the Commission's consideration, and all four passed unanimously. The first study, required by Public Chapter 407, Acts of 2019, directs the Commission to study 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 health care services at lower costs. The study shall include an examination of savings realized by programs in Maine, New Hampshire, Florida, Arizona, and Kentucky. The second study was requested by the Senate State and Local Government Committee and the House State Committee, which referred Senate Bill 1114 by Yarbrow and House Bill 1120 by Freeman to the Commission for study. The bill would have created the state government advisory task force on extreme weather and community resilience charged with studying and developing policy recommendations regarding Tennessee's community resilience to natural catastrophes and extreme weather. The third study was referred by the House Local Government Committee requesting a study of Senate Bill 600 by Jackson and House Bill 635 by Travis. The bill would have required local governments to provide a secure electronic interactive system for invitations to bid, requests for proposals and other offers, and would exempt certain local governments. The last study was requested via letter to the Commission dated May 5, 2019. The letter asked for a study of Senate Joint Resolution 344, which directs the Commission to study the overall effects of illegal waste tire dumps within the boundaries of the State of Tennessee in an effort to better understand the adverse impacts of tire dump on the environment, review current waste tire recycling methods, and assess potential preventative measures to curb the practice of illegal tire dumping.

## **6. Fiscal Capacity for Fiscal Year 2019-20**

Senior Research Associate Michael MOUNT presented the annual update on TACIR's fiscal capacity index and background information about the index and education funding in Tennessee. He provided an update of Tennessee's 95 counties' 15-year fiscal capacity trends and highlighted the US Bureau of Economic Analysis's revision of per capita income. Mr. MOUNT discussed the potential effect of internet sales tax on local sales tax base, one of the factors in TACIR's fiscal capacity calculation.

Mayor WATERS, referring to the first slide in the presentation and the percentages of state and local shares in the Basic Education Program (BEP) shown on it, asked how the shares are calculated. Deputy Executive Director Melissa BROWN said the percentages are for the state

overall (all of the school systems added together) and are in state statute. She said a county's percentage will either be higher or lower than for the state, based on its fiscal capacity.

County Executive HUFFMAN said state funding for one component can be used for other components. Ms. BROWN said there's some flexibility in the way state funds are spent. She said non-classroom and classroom support funds can be spent in any category, but funds for the two instructional categories have to be spent on instructional costs.

Mayor ANDERSON asked whether anything from outside the BEP is included in the total cost of the BEP. Ms. BROWN said the cost of the BEP is based on the number of positions generated by the BEP, not on the actual number of positions. Senator ROBINSON asked how the number of positions in the BEP is determined. Ms. BROWN said it's based on average daily membership and the ratio for each grade level, for instance for grades K-3 the ratio is one teacher for every 20 students.

County Executive HUFFMAN asked how the TACIR and CBER fiscal capacity models account for payment in lieu of tax agreements of industrial development boards. Mr. MOUNT said that both models include a property assessment factor, and in CBER's model, the assessed value of PILOT properties are included; however, TACIR's model uses 1993-1995 Tax Equivalent Payments from a Comptroller's report that is no longer being updated. He said that any new PILOT properties would be reflected in CBER's model but not in TACIR's model. Dr. LIPPARD said that updating TACIR's fiscal capacity model with the updated industrial development board assessment data was recommended to the BEP Review Committee and the State Board of Education, but as with any change to fiscal capacity, it would create winners and losers, and because of that there have not been any updates to TACIR's fiscal capacity model.

Mayor WATERS asked whether central business improvement districts (CBIDs) are taken into account when fiscal capacity is calculated. Mr. MOUNT said they are not and that the local sales tax base factor includes the entire local sales tax base of a county regardless of whether the revenue is used for education. Mayor WATERS said the CBID is state law, and Sevier County can't do an agreement about education with a CBID, as it can for a PILOT agreement. Chairman CARTER said half of the local option sales tax goes to education, but CBIDs are an exception. He said no one gets a PILOT agreement in Hamilton County unless they agree to pay the portion that goes to the schools.

Mayor MCDONALD asked whether the state's internet sales tax revenue is being used to fund K-12 education. Mr. MOUNT said that the 2016 fiscal note estimate was \$160.5 million. [Note: The 2019 fiscal memo estimate was \$44.7 million for 2019-20 and \$59.6 million for subsequent years. TACIR's 2019 report *Leveling the Playing Field: Internet Sales Tax in Tennessee* said that "a point of agreement among local members was that one of the most effective ways for the state to help local governments address education funding issues would be to use some of the state sales tax revenue resulting from enforcement of Rule 129 to increase the state's Basic Education Program (BEP) funding."] Mayor MCDONALD asked legislators to consider this recommendation. He said we should find ways to meet education needs outside the BEP, such as with funding for School Resource Officers, because the BEP is broken.

Representative LOVE asked whether Title 1 funds affect the amount of state dollars allocated to a school system. Ms. BROWN said Title 1 funds are not included in the BEP, which is its own stand-alone formula. She said state and local funding is combined, but federal is kept separate. Representative LOVE said we can't legislate which schools receive Title 1 funding.

#### **7. Public Chapter 952, Acts of 2018 (Credit to Shippers' Franchise and Excise Tax Liability) – Draft Report For Review and Comment**

Senior Research Associate Tyler CARPENTER presented the draft report for review and comment. Public Chapter 952, Acts of 2018 required staff to study a proposal that would provide a franchise and excise tax credit of 2% to any shipper with deliveries to or from Shelby County that implements a turnaround policy to ensure that pickups and deliveries are performed on time.

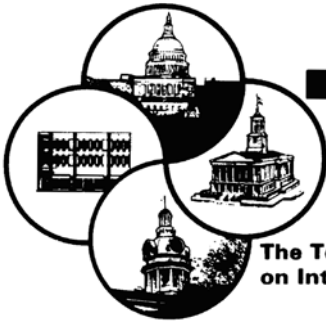
Mr. CARPENTER summarized the importance of freight transportation by truck in Tennessee, delays drivers face at shipping and receiving facilities, and the importance of consistent income in recruiting and retaining truck drivers. He explained the proposed credit and its unclear potential effect on driver detention and turnaround time. Lastly, Mr. CARPENTER summarized the various efforts and responses currently ongoing that have potential to improve the current issue. He said the draft report recommends that because the logistics and transportation industry is already using new technology to streamline logistics and improve efficiency, because there is no enforcement mechanism to ensure that the policy is actually implemented and maintained, and because it is unclear whether the proposed franchise and excise tax credit would result in reduced turnaround time, greater productivity, and more consistent driver pay, the proposed credit not be adopted at this time. Vice-Mayor Kay SENTER said she would like to see the Commission monitor this and see what can be done moving forward.

Chairman Mike CARTER then recognized Brandon MUSSO, Sales Manager with C.A.T. Global Inc., who had asked to speak to the Commission. Mr. MUSSO expressed his displeasure with the findings in the report.

Mayor Keith MCDONALD said the problem appears to be a federal issue where the federal government doesn't recognize detention time. He said Commission members should stand behind the trucking industry to get a fairer representation and to improve driver safety. He said the franchise and excise tax credit is not the answer; dealing with detention time is the answer, and that appears to be a federal issue.

Representative Harold LOVE asked whether the report was justifying not recommending the tax credit by citing the number of companies already taking advantage of existing tax credits—some even reducing their franchise and excise tax liability to zero. Mr. CARPENTER said that the number provided by the Tennessee Department of Revenue on franchise and excise tax liability and credits is just one part of a larger argument. Representative LOVE said that there remain a lot of taxpayers who have a franchise and excise tax liability and could benefit from this proposal.

Chairman CARTER adjourned the meeting at 3:39 p.m.



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

May 30, 2019

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room II of the Cordell Hull Building 8:37 a.m., Chairman Mike CARTER, presiding.

| <b>Present 19</b>                      | <b>Absent 4</b>           |
|--|---------------------------|
| Mayor Rogers Anderson                  | Mayor Tom Bickers         |
| Mayor Buddy Bradshaw                   | Representative Susan Lynn |
| Mayor Kevin D. Brooks                  | Senator Bo Watson         |
| Representative Mike Carter             | Senator Jeff Yarbro       |
| Mr. Calvin Clifton                     |                           |
| Representative John Crawford           |                           |
| Deputy Commissioner Paula Davis        |                           |
| Mayor Brent Greer                      |                           |
| County Executive Jeff Huffman          |                           |
| Senator Jon Lundberg                   |                           |
| Representative Harold Love Jr.         |                           |
| Mayor A. Keith McDonald                |                           |
| Representative Antonio Parkinson       |                           |
| Mr. Jeff Peach                         |                           |
| Senator Katrina Robinson               |                           |
| Vice Mayor Kay Senter                  |                           |
| Mayor Larry Waters                     |                           |
| Comptroller Justin Wilson <sup>1</sup> |                           |
| Senator Ken Yager                      |                           |
|  |                           |
|  |                           |

<sup>1</sup> Lauren Spires represented Justin Wilson.

## 8. House Bill 971/Senate Bill 1075 (Local Revenue and Services)—Panel Discussion on K-12 Funding and Requirements

Senior Research Associate Michael MOUNT introduced a panel of speakers knowledgeable about issues related to K-12 education funding in Tennessee:

- Chris Henson, Chief Operating Officer, Metropolitan Nashville Public Schools
- Randy Frazier, Director of Weakley County Schools and Treasurer of the Tennessee Organization of School Superintendents (TOSS)
- Ben Torres, Deputy General Counsel and Director of Government Relations, Tennessee School Boards Association (TSBA)

Randy FRAZIER said superintendents have concerns about the Basic Education Program (BEP) and believe it underfunds public schools. He said that the funding ratios based on student enrollment were set many years ago, have not been addressed in a long time, and Tennessee has bypassed the relevancy of these ratios. While Weakley County Schools has 4,000 students and 10 schools, the BEP only funds one assistant principal for the district. They also have a nurse in every school, but the BEP formula only funds 1.3 nurses. He said another criticism of the BEP is that when the state gives a pay raise, teachers say they do not receive those raises. Weakley County Schools has approximately 35 more positions, including nurses and assistant principals, than are generated by the BEP funding formula. State pay raises are given based on the number of positions generated by the BEP, not the teachers you have to have to run an effective school system. A 2.5% pay raise, when distributed to all positions, might result in a 1.5% pay raise. He also said that the BEP formula uses one salary figure for positions—BEP funding per position of \$48,330 may be enough for beginning teachers but not for more experienced teachers, principals, assistant principals, and supervisory staff. Mr. FRAZIER said it seems that each time a raise is given something else in the BEP is cut. A few years ago when a raise was given, all the extended contract money in the BEP was cut. [Note: Extended contract money was funded outside the BEP.] He also said Weakley County Schools was harmed by a change in funding for at-risk student funding. The funding used to be based on the number of children on free or reduced lunches, but that was changed to the number of children that are directly certified as receiving some type of government assistance. He concluded that school systems have to make up for funding for programs our community expects us to have.

Ben TORRES described how TSBA works with school districts, which are usually the largest employer in a county. He said the BEP is complicated, and superintendents and schools boards have the challenge of providing the best education they can while looking to local officials for funding. He said the General Assembly made huge increases to teachers' salaries, but school board members share Mr. FRAZIER's concerns.

Chris HENSON said concerns about BEP funding have been communicated through the BEP Review Committee's annual report, which is due November 1 of each year. When the BEPRC recently discussed school security, the committee ended up looking at items like school psychologists, school counselors, school nurses, and social workers. He said each of these positions are underfunded, particularly compared to national best practices. He said the



average teacher salary in Tennessee is \$5,000 above what the formula generates per position. He also said school districts require more positions than the formula generates because class size requirements have to be met by each individual school but the BEP is based on district-wide enrollment. He added that Metro Nashville Public Schools has about 600 teaching positions more than what is funded by the BEP. He said the \$40 million for the technology component is a drop in the bucket versus what's needed for one million students statewide.

Senator YAGER asked how recalibrating the formula without increasing funding would help school districts, adding that in the past few years, the state made record appropriations to K-12 education. Mr. FRAZIER said additional increases in BEP funds are needed. He said there is not enough recognition in the formula for the number of teachers you are required to have to run a school system, and that funding for at least one assistant principal per school would help. He also said it would help for the state to include in the BEP a different salary for administrators and 12-month employees and, when raises are given, not cut other programs. Senator YAGER also asked what is done with the BEP annual report. Mr. HENSON explained that the report is submitted each year, with recommendations, to the Governor's Office, the House of Representatives, and the Senate. Many of the recommendations are repeats from previous years and typically require additional state dollars. There is still a need for additional funding, and the BEP Review Committee tries to outline where different components are inadequate.

Mayor MCDONALD said the idea of keeping funding the same and changing the BEP is why it has never changed, because there will be winners and losers, and nobody wants to be the loser. Mayor WATERS asked whether we foresee any changes to the BEP funding formula. Mr. TORRES said you can come up with something new or use the existing formula and improve it or add components. He said the two biggest issues he hears from districts are student-teacher ratios and salaries.

County Executive HUFFMAN asked whether the lawsuit [Shelby County. Bd. of Educ. v. Haslam, 2019 Tenn. LEXIS 142] is about adequacy or equity. Mr. HENSON said it is about adequacy, and Mr. FRAZIER said the formula is not set up to provide an adequate education. County Executive HUFFMAN said the BEP does not provide enough positions to operate a school system, but it was never meant to, and there are no systems only with positions generated through the BEP. He asked whether the state should pay for however many directors of schools a county has, and Mr. FRAZIER said no. In response to Senator LUNDBERG's question about whether Weakley County's student population has been relatively stable for the past decade, Mr. Frazier said the school system has lost about 500 students in the past several years. Senator LUNDBERG asked about the size of the teaching and administrative staff. Mr. FRAZIER said both teaching and administrative staff have been cut. He said when you lose 20 students at \$7,000 per student you lose \$140,000, but one teacher is \$50,000, and you have to find other things to cut. He added that those 20 students could be spread across the district, making it difficult to make a clean cut.

County Executive HUFFMAN asked about the effect of the state's share of the instructional component going from 75% to 70%, and Mr. TORRES said the locals make up that 5% difference. Mr. FRAZIER said his system has seen a loss in funding. County Executive

HUFFMAN asked, with the increases in state appropriations for education and the 5% decrease in the state's share of the instructional component, has there been a real increase in state funding? Mr. HENSON said yes, overall state funding increased. He added that the intent of BEP 2.0 was for the state's share of instructional funding to go back to 75%, where it was originally, but that never occurred. [The state share of the instructional category was decreased from 75% to 65% in 2004-05 from the previous year when it was part of the classroom category. The state share of the instructional category was increased to 70% in 2007-08 as part of the phase-in of BEP 2.0.]

County Executive HUFFMAN said the BEP equalizes funding, but determining a school system's basic need is difficult because urban and rural areas do not have the same challenges. Representative CRAWFORD asked whether it costs more to educate a student in an urban area than in a rural area. Mr. HENSON said yes, based upon their needs. Mayor BROOKS said that in urban areas, the cost of living is high, and locals provide extra funding for salaries to be competitive. Senator YAGER asked whether the BEP is neutral in its application to urban and rural counties. Mr. HENSON said there are two fiscal capacity models, but it is debatable how fair they are. Mayor WATERS said a point of contention for BEP 2.0 is that the TACIR model takes into account personal income, but CBER's model does not. He added that Sevier County is an outlier.

Mr. FRAZIER said he heard the growth money will be cut \$25 million [TACIR staff followed-up with the Tennessee Department of Finance and Administration, and the growth fund was not cut for fiscal year 2019-20]. Representative CRAWFORD asked whether cuts to the growth fund would affect urban or rural areas, and Mr. FRAZIER said it's generally urban areas that are growing. Mr. HENSON said the General Assembly will approve funding for systems with growth around January or February, it mainly affects suburban counties, and it's an attempt to provide additional funding to school districts that are experiencing enrollment growth. He said the BEP is based on the prior year enrollment (average daily membership). Mr. FRAZIER said his system has not been growing and has not received growth funds. He said you have to be able to serve the number of students you have at the beginning of the year, but calculation of average daily membership is weighted more towards the end of the year.

Representative LOVE expressed concern with the status of school facilities across the state because funding generated through the BEP for capital needs can be used in areas other than maintenance. He suggested that we lock in funding for maintenance as is done for instructional funds. In response to a question by County Executive HUFFMAN regarding moving funds out of the instructional component, Ben TORRES said that school districts cannot use instructional funds on other components, but districts providing above-average salaries can use benefits funding on salaries [Tennessee Code Annotated, Section 49-3-306(b)(4)(B) authorizes a school district to use funds for instructional salaries and wages on instructional benefits when the district's average salary exceeds the statewide average salary]. Mr. HENSON added that these districts can hire additional positions with benefits funding, too. County Executive HUFFMAN asked, of districts that use capital money on salaries, how do these districts fund capital needs and answer questions about how BEP capital money is spent? Mr. HENSON said the BEP is a funding formula, not a spending plan. He said his district requests capital funding from its mayor and funding body, the city council, and that is not something that typically comes out of

the district's general purpose operating budget. Mr. HENSON said the district shows that it is spending funds generated for capital outlay on inadequacies in the current funding formula, which are in teacher salaries, teaching positions, and a variety of other areas.

Representative LOVE asked how much adverse childhood experiences and trauma increase education spending. Mr. HENSON said we have to do something for the mental, social, and emotional needs of our students, but funding ratios for school psychologists, counselors, nurses, and social workers are inadequate in the BEP funding formula. Mr. TORRES said some of the issues can be traced to the opioid crisis in Tennessee. Mr. FRAZIER said Weakley County used local funds to provide a month of special summer school work for children from at-risk homes. Vice-Mayor SENTER said that school systems take on programs that they can fully fund, but when services are not provided, the classroom teacher assumes them, becoming the nurse, the counselor, the guidance counselor, the liaison, or whatever needs to be done. She said funding is needed for grades K-3 to lay a foundation, and an educated citizenry lays the foundation for economic development.

Mayor MCDONALD asked what fully funding the BEP means. Mr. HENSON said that the BEP is fully funded as it stands today, not taking into consideration inadequacies and components that are inadequately funded or missing. He said, for instance, there is no component for teacher training and professional development. In response to Mayor MCDONALD's question regarding the state's projected internet sales tax revenue, Mr. MOUNT said the 2019 fiscal note projected \$44.7 million for 2019-20 and \$59.6 million in subsequent years.

County Executive HUFFMAN and Mayor MCDONALD emphasized that funding education is a partnership between state and local governments, with the BEP funding the minimum level of education for every child in the state. Mayor MCDONALD and Mayor ANDERSON discussed how investment in public education develops a prepared workforce and encourages growth. Mayor ANDERSON described the sales tax referendum in Williamson County, the agreement of local officials to use sales tax revenue for K-12 education, and the need to construct and add on to schools, which is costly and left to the county to fund. He also said cities and counties should not give away money under TIFS and PILOTS, and Vice-Mayor SENTER agreed.

Mayor ANDERSON suggested changing the one-year maintenance of effort requirement to a 3-year or 5-year average like the county highway department. He said, as fast-growing systems invest in education to keep up with growth, systems are increasing their maintenance of effort requirement in subsequent years. He said maintenance of effort ties the hands of school districts that have to shift money to meet that requirement.

Mayor MCDONALD said the BEP Review Committee has looked at teacher salaries, and there is not enough revenue in the BEP to fund the average. Mayor BROOKS asked that the report include what the BEP Review Committee has been recommending because what's in those reports is not working or connecting.

## **9. Cord Cutting and Local Revenue—Draft Report for Review and Comment**

Policy Coordinator Dr. Matthew OWEN presented the draft report on cord cutting and local government revenue in Tennessee for review and comment. He said that cord cutting has

become a common descriptor for the practice of forgoing cable or satellite service in favor of subscribing to their internet-based streaming competitors, though he noted that if provided over wired internet connections, streaming videos are delivered over the same wires that would otherwise deliver traditional cable service. In response to Senator YAGER's question about whether the wired infrastructure is owned by cable companies, Dr. OWEN said that these wired communications networks are generally owned by cable companies or telephone companies both of which now also provide internet service. He said subscriber counts for both cable and satellite peaked nationally in 2012, and the trend toward cord cutting will likely continue, but the shift away from cable and satellite is expected to be gradual.

Dr. OWEN said that although cable, satellite, and streaming each offer video entertainment for personal consumption, there are several variations in the taxes and fees that apply to them. While all three services are subject to sales tax, cable and satellite receive partial exemptions. However, both are also subject to higher state sales tax rates than streaming for at least a portion of each customer's monthly bill, which partially offsets the effect of these exemptions.

Dr. OWEN said that providers of cable television service—but not satellite or streaming—are required to obtain cable franchise agreements for the areas in which they offer service, under federal and state law. In Tennessee these agreements can be issued by local governments or the state. Local governments commonly receive compensation from cable providers through franchise agreements, regardless of whether the agreements are locally issued or state-issued, in particular, cable franchise fees—which have been capped at 5% of providers' gross revenue from cable service under federal law since 1984. He said that franchise fees will likely be affected by changes in the market for cable services because they are based on a percentage of cable providers' gross revenue.

Dr. OWEN described several alternatives to Tennessee's tax and fee structure for video services based on a review of laws in other states. But each would either impose costs on the state or its local governments or increase taxes on the video services of cable's competitors that don't deploy infrastructure in public rights-of-way. Moreover, proposed Federal Communications Commission rule changes, if they take effect, could reduce local fees and other local compensation cable providers are currently subject to. For these reasons and because the sales tax rates that currently apply to cable, satellite, and streaming in Tennessee are already similar to each other, he said that the draft report doesn't recommend any immediate changes in the state's tax and fee structure. However, he said that because it is likely that revenue from cable franchise fees will decrease in the future if industry trends continue, the draft report does recommend that local governments should consider no longer using this revenue to fund government services that have maintenance of effort requirements. The final report is scheduled to be presented at the September meeting.

Dr. OWEN also said that numerous other telecommunications-related concerns raised by commission members, providers, local officials, and others interviewed warrant further study, and he said that the draft report proposes that the Commission evaluate these issues in the update to its 2017 broadband report, which is required by the Tennessee Broadband Accessibility Act. Mayor MCDONALD said that ensuring access to broadband is a major concern for local governments, and he said that another concern is for local governments to

know what infrastructure is being placed in their rights-of-way and where that infrastructure is located, noting that local governments sometimes lose the ability to enforce accountability when the state takes over previously local responsibilities.

#### **10. House Bill 2265/Senate Bill 2146 (Consolidation of Municipal Elections)—Draft Report For Review and Comment**

Senior Research Associate Jennifer BARRIE presented the draft report on the consolidation of municipal elections for review and comment. The report was prepared in response to House Bill 2265 by Representative C. Sexton and its companion bill, Senate Bill 2146 by Senator Gardenhire, which were introduced in 2018 because of concerns about low voter participation and the cost of municipal elections, which cities pay for when they don't coincide with countywide 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.

Summarizing the draft report's recommendations, Ms. BARRIE said that although aligning municipal elections with countywide elections usually saves cities money and improves voter turnout, local government representatives are concerned about mandating that city elections coincide with county, state, and federal elections. Because local officials understand the unique needs and issues of their communities and when elections work best for them, the draft report recommends 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 another option for municipalities. The final report is scheduled to be presented for approval at the September meeting.

Mayor Keith MCDONALD said that he echoed the concern of locals about election fatigue and mentioned that elections for all judges—local, county, and state—are required to be held in August, not on the date that municipalities have chosen for their elections, which incurs more expense for cities. He understands the concerns of other cities about long ballots and ballot fatigue and asked that in the final report staff look at whether the perception of ballot drop-off and lower turnout is reality. This would be important to know when making a decision about whether to require election consolidation.

Vice-Mayor Kay SENTER agreed and commented that she appreciates the recommendation that the legislature continue to authorize cities to make the decision about whether to consolidate their elections. She said it looks like most locals are making the decision to save money.

#### **Other Business**

The next meeting is scheduled for September 5-6, 2019. Chairman CARTER adjourned the meeting at 11:11 a.m.