



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations

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MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

June 28, 2023

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room I of the Cordell Hull Building at 1:03 p.m., Senator Ken Yager presiding.

Present 20	Absent 4
Mayor Rogers Anderson	Senator Jon Lundberg
Mayor Buddy Bradshaw	Representative Antonio Parkinson
Mayor Kevin D. Brooks	Mr. Jeff Peach
Mayor Paige Brown	Representative Ryan Williams
Commissioner Jim Bryson	
Senator Heidi Campbell	
Councilman Chase Carlisle	
Mr. Calvin Clifton	
Representative John Crawford	
Mayor Terry Frank	
County Clerk Mary Gaither	
Representative Patsy Hazlewood	
County Executive Jeff Huffman	
Representative Harold Love Jr.	
Comptroller Jason Mumpower ¹	
Commissioner Deniece Thomas ²	
Mayor Larry Waters	
Senator Bo Watson	
Senator Ken Yager	
Senator Jeff Yarbro	

¹ Dana Spoonmore represented Comptroller Jason Mumpower.

² Stamatia Xixis represented Commissioner Deniece Thomas.

1. Call to Order and Approval of the Minutes

Chairman Ken YAGER called the meeting to order at 1:03 p.m. Chairman YAGER then requested approval of the January 2023 meeting minutes. The motion was made to approve by Representative John CRAWFORD, seconded by Senator Heidi CAMPBELL, and passed unanimously.

2. Commission and Staff Update

Executive Director Cliff LIPPARD began the commission update by notifying the members that it was time for the election of the TACIR chair and vice chair for the start of new two-year terms. With no objection, the election was postponed until later in the first day of the meeting because Vice Chairman Kevin Brooks was delayed by traffic. When held at the end of the day's meeting, Chairman Ken YAGER turned the gavel over to Vice Chairman Kevin BROOKS, who in turn asked for nominations for the position of chair. Mayor Larry WATERS nominated Senator Yager for reelection; the nomination was seconded by multiple members and unanimously adopted. Chairman YAGER then requested nominations for the position of vice chair. Mayor Rogers ANDERSON nominated Mayor Brooks for reelection; the nomination was seconded by Commissioner Calvin CLIFTON and unanimously adopted.

Dr. LIPPARD introduced two new members, Finance and Administration Commissioner Jim Bryson and Mayor Paige Brown of the City of Gallatin, and congratulated Mayor Kevin Brooks, Mayor Rogers Anderson, Senator Jeff Yarbrow, Mr. Calvin Clifton, and Mr. Kevin Peach on their reappointments.

Turning to staff updates, Dr. LIPPARD informed the members that Research Director Mark McAdoo was retiring at the end of July after 30 years of service to the State of Tennessee. Following the reading by Research Director David Lewis of a Senate Joint Resolution honoring Dr. McAdoo's career, Dr. McADOO spoke, thanking the members and staff.

Dr. LIPPARD next congratulated Jennifer Barrie, who in recognition of her excellent work and potential for further professional development, was promoted to fill the research director position vacated by Dr. McAdoo's retirement.

Observing additional milestones, Dr. LIPPARD asked the members to congratulate Deputy Executive Director Melissa Brown on achieving 25 years of service to the State of Tennessee and for completing TACIR's comprehensive training pyramid, as well as Research Manager Bob Moreo for achieving 10 years of state service.

Finally, Dr. LIPPARD introduced three new research associates, Jennifer Arzate, Carly Van Syckle, and Madison Moffitt.

3. Fiscal Year 2022-2023 Accomplishments

Deputy Executive Director Melissa BROWN summarized the Commission's major accomplishments for the past fiscal year, which will be incorporated into the Commission's biennial report for fiscal years 2022-23 and 2023-24.

4. Legislative Update

Senior Research Associate Michael STRICKLAND presented the legislative update for 2023, with a review of bills that were either considered or passed in the first part of the 113th General Assembly that related to the Commission's work.

Dr. STRICKLAND recounted bills related to broadband internet, court fees and criminal law, land use and growth plans, liquor laws, local government conflicts of interest, personal property tax, precious metal depositories, the professional privilege tax, sales tax, transportation, water and outdoor recreation, and water and utility systems, highlighting in each case legislation that embodied recommendations from the Commission's work. He presented two bills and two joint resolutions that had been put forward to the Commission requesting a total of four possible new studies. One of the joint resolutions passed in the House, but a companion resolution was not filed in the Senate. The other three items did not pass in either chamber. The joint resolution adopted in the House directs the Commission to conduct a study of impact fees and housing affordability. The other three study requests concerned possible criminal sentencing disparities, reliability of the electrical grid, and security of the state's water infrastructure.

5. Work Program Amendment and New Research Plans

Deputy Executive Director Melissa BROWN presented one amendment to the fiscal year work program for the Commission's consideration, which was unanimously adopted by the Commission. The study was requested by House Joint Resolution 139 by Sparks to review impact fee policies and how they might affect home affordability. The resolution was adopted by the House, but a companion resolution was not filed in the Senate. Ms. BROWN said that draft research plans were included in Tab 3, one for the proposed project and one for a wastewater study, which was added to the work program at the Commission's January 2023 meeting.

Regarding the wastewater study research plan, Mayor Terry FRANK asked whether staff could gather information about the governance of utility boards (municipal, city council, independent, or appointed); whether board members are compensated; and whether the compensation includes benefits. Deputy Executive Director BROWN said staff would add those questions to the research plan.

Executive Director Cliff LIPPARD said he met with Speaker Sexton and Representative Sparks about the resolution requesting the impact fee study prior to the resolution passing. During that meeting it was agreed that, should the resolution pass and the Commission vote to add the study to TACIR's work program, the study would include not just research on impact fees, but also other factors affecting housing affordability.

In response to Senator Heidi CAMPBELL's question as to what other affordability factors might be included, Director LIPPARD said that any number of variables were possible. Councilman Chase CARLISLE asked whether, after the research has been conducted and metrics of what is the need for affordable housing, what are the causes, and how to alleviate those—through zoning regulations, impact fees, sewer/storm tap fees—will TACIR be making

recommendations, and will the research include a review of the benefits of having affordable housing? He also asked whether the study would look at housing other than focusing on single-family housing and include mixed-use and affordable rentals and rent-to-own homes. Director LIPPARD said staff would be reviewing studies of the issue but couldn't comment on what, if any recommendations, would be made until the research has been conducted and could review the benefits of affordable housing. He also said that supply and demand are issues with affordable housing and the study will include a review of all types of housing. Representative Harold LOVE requested that the report include an explanation and clarification of how and when local governments can impose impact fees. Chairman Ken YAGER requested that the study include the effect of these fees on local government revenues. Mr. Jeff PEACH asked that the report include how funds are used—for example impact fees being used to meet education needs of the community. Mayor Buddy BRADSHAW asked that boards of education be added to the list of stakeholders interviewed.

6. Fiscal Capacity for Fiscal Year 2023-24

Senior Research Associate Presley POWERS presented the annual update on TACIR's fiscal capacity index and background information about the index and education funding in Tennessee. She explained that the Basic Education Program was replaced by the Tennessee Investment in Student Achievement (TISA) beginning with fiscal year 2023-24 and that the TACIR model will continue to be used. She provided an update of Tennessee's 95 counties' 15-year fiscal capacity trends. Ms. POWERS reviewed potential recommendations and changes to the model including moving to Industrial Development Board assessment data from tax equivalent payments, monitoring the service responsibility factor, transitioning to a school-system-level model, and changing the way virtual school students are counted for the purpose of fiscal capacity. She also explained the effect of statewide virtual schools on fiscal capacity and provided examples of local revenue per student with and without statewide virtual school students.

Senator Heidi CAMPBELL asked whether the potential change regarding virtual school students is to exclude virtual students to not unfairly harm counties without statewide virtual schools, and Ms. POWERS said, yes, that is the purpose. Commissioner Jim BRYSON asked whether fiscal capacity calculations could only include virtual students that reside within the school system's area, and Ms. POWERS said they could.

Mayor Larry WATERS asked how effective virtual schools are compared to traditional schools. Ms. POWERS said there is an evaluation process conducted by the Department of Education (Note: According to the Tennessee Department of Education's Virtual Education Report, School Year 2020-2021, "Historically, Tennessee virtual schools have performed below expectations on state assessments."). Ms. POWERS said there is a threshold on enrollment for underperforming schools (Note: The threshold is codified in Tennessee Code Annotated, Section 49-16-211(b)).

Senator CAMPBELL said that using averages rather than medians in fiscal capacity calculations can be problematic for cities where there are large differences in the fiscal health of residents, noting that TISA does not include cost-of-living adjustments. Representative Harold LOVE asked whether the fiscal capacity model took the funding body's debt into consideration in its calculations. He said he is concerned that fiscal capacity continues to increase in his area but

does not consider the debt of large cities. Research Director Michael MOUNT said the model does not currently consider debt. Ms. POWERS explained the model is behavioral because it is based on the amount of revenue actually raised for education by local governments in Tennessee.

Senator Jeff YARBRO asked how the pressure on property taxes should be addressed, particularly in counties like Davidson and Sevier that have greater fiscal capacity. Mr. MOUNT responded that some counties have a greater ability to export their tax burden than other counties. Senator YARBRO responded that even in cases where some of the burden is perceived to be exported, there is still a lot of cost associated with tourism in those areas, and Mayor WATERS agreed.

7. Passenger Rail and Mobility – Draft Report for Review and Tentative Approval.

Senior Research Associate Chris BELDEN presented the draft report on passenger rail and mobility for review and approval. The draft was prepared in response to Public Chapters 1114 and 1124, Acts of 2022, which directed the Commission to study and make recommendations regarding passenger rail or other suitable alternatives linking the major cities in each of the grand divisions of the state, with a due date of July 1, 2023.

Mr. BELDEN said that intercity passenger rail could help increase connectivity and facilitate tourism and other economic development initiatives in Tennessee, supplementing the existing public- and private-sector efforts to address the state's transportation needs. He said the state would almost certainly have to subsidize any new passenger rail service through capital investment and ongoing operating cost support, but the cost to taxpayers of establishing and operating service on any given rail corridor cannot be known without more detailed engineering and technical analysis. Mr. BELDEN said that for these reasons, the report recommends the Tennessee Department of Transportation (TDOT) determine the cost, engineering, and any other requirements needed to implement passenger rail service on the following corridors, in order of priority according to the following tiers, with Tier 1 being the highest: Nashville to Chattanooga to Atlanta, GA (Tier 1); Memphis to Nashville (Tier 2); Chattanooga to Knoxville to Bristol (Tier 2); Memphis to Chicago via Carbondale, IL (Tier 3); and Nashville to Louisville, KY (Tier 3). He said that federal funding is available for these types of studies through the Federal Railroad Administration's (FRA) Corridor ID program, and the report recommends TDOT submit the required data and documentation to the FRA in support of the joint application to the program already made by local governments for the Nashville to Chattanooga to Atlanta and Memphis to Nashville routes. Additionally, the report recommends TDOT submit an application for the Chattanooga to Knoxville to Bristol route and consider submitting applications for the two tier 3 routes at the next funding opportunity. Further, the report recommends the state create an office of rail and public transportation within TDOT, collaborate with Virginia to identify opportunities to maximize the viability of rail corridors that might connect with that state and the wider Amtrak network, and evaluate intercity bus service options along certain key routes in coordination with the goals of the Transportation Modernization Act.

Representative Patsy HAZLEWOOD asked why the potential Nashville to Chattanooga route was not included in the intercity bus recommendations. Mr. BELDEN said that this route has already been applied for to the FRA's Corridor ID program.

Councilman Chase CARLISLE asked whether a potential Blue Oval passenger rail link was considered as part of the report. Mr. BELDEN said Blue Oval would be related to commuter travel, getting workers to and from jobs, whereas the report was focused on intercity travel, or travel between cities. Councilman CARLISLE said it's important to connect Nashville to the eastern seaboard, and a Nashville to Memphis route would be important for the economies of Nashville and Memphis.

Vice Chairman Kevin BROOKS asked whether there is any information regarding rail traffic control studies that would need to be completed by freight railroad companies to allow passenger rail on their tracks. Mr. BELDEN said there is a project timeline figure on page 58 of the report that mentions the need for host freight railroads to do their own feasibility studies. In response to Representative John CRAWFORD's question about the participation rate of intercity bus service in Tennessee, Mr. BELDEN said the report does not include data on the number of passengers using intercity bus services in Tennessee but does include the data for a similar state-sponsored intercity bus service in Virginia along the I-81 corridor.

Chairman Yager adjourned the meeting at 3:09 p.m.



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

July 29, 2023

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room I of the Cordell Hull Building at 8:34 a.m., Senator Ken Yager presiding.

Present 19	Absent 5
Mayor Rogers Anderson	Senator Heidi Campbell
Mayor Buddy Bradshaw	Senator Jon Lundberg
Mayor Kevin D. Brooks	Senator Bo Watson
Mayor Paige Brown	Representative Ryan Williams
Commissioner Jim Bryson	Senator Jeff Yarbro
Councilman Chase Carlisle	
Mr. Calvin Clifton	
Representative John Crawford	
Mayor Terry Frank	
County Clerk Mary Gaither	
Representative Patsy Hazlewood	
County Executive Jeff Huffman	
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Comptroller Jason Mumpower ¹	
Representative Antonio Parkinson	
Mr. Jeff Peach	
Commissioner Deniece Thomas ²	
Mayor Larry Waters	
Senator Ken Yager	

¹ Dana Spoonmoore represented Comptroller Jason Mumpower.

² Stamatia Xixis represented Commissioner Deniece Thomas.

8. Senate Bill 2827/House Bill 2729 (Emergency Communications on College and University Campuses)—Update

Research Manager Bob MOREO updated the Commission on staff's progress towards its study of emergency communications on college and university campuses in Tennessee, which was taken up by the Commission in 2022 in response to Senate Bill 2827 by Senator Hensley and House Bill 2729 by Representative Ogles. The bill passed in the Senate with an amendment but was referred to summer study by the House Finance, Ways and Means Subcommittee. Mr. MOREO summarized staff's preliminary research into state and federal laws pertaining to campus crime reporting and explained how federal law—the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”)—and Tennessee's campus crime reporting law—the College and University Security Information Act—are similar but not identical in their reporting requirements. Mr. MOREO explained differences in which crimes each law requires to be reported and the geographic campus boundaries within which each law requires crime data to be reported. He also explained how the state and federal governments investigate colleges' compliance with the laws and consequences for noncompliant institutions. Mr. MOREO said there are no federal or state laws requiring postsecondary institutions to save recordings of calls made to campus police and security, and no federal or state laws that dictate how long the recordings should be kept if calls are recorded. Although Tennessee doesn't require local governments to save 9-1-1 recordings for a specified period of time, Mr. MOREO said that 26 other states do.

Mr. MOREO said Commission staff have interviewed campus police at six postsecondary institutions in Tennessee to get a sense of how they are complying with the requirements of state and federal crime reporting laws. He shared some of these interviewees' suggestions for improvements at both the federal and state levels to make reporting of crimes easier. Mr. MOREO said a draft report will be presented to the Commission at its next meeting.

County Executive Jeff HUFFMAN asked whether the study includes all institutions of higher learning (e.g. four-year colleges, community colleges, etc.). Mr. MOREO said yes, Tennessee's law requires that all postsecondary institutions report crimes to the Tennessee Bureau of Investigation. He also explained that the federal Clery Act only applies to institutions that participate in federal financial aid programs, so institutions in Tennessee that do not accept federal aid are not required to file Clery Act reports. Mayor HUFFMAN asked whether legislation passed by the General Assembly this year to fund school resource officers included any funding to address postsecondary institutions. Mr. MOREO said he didn't believe there was but said staff would look into that legislation to verify. Representative Patsy HAZLEWOOD responded to Mayor HUFFMAN's question to say that the bill applied only to K-12 schools. [Note: TACIR staff verified that the legislation, Public Chapter 367, Acts of 2023, only addressed safety in K-12 schools, not postsecondary institutions.]

Mayor Terry FRANK said that police departments and sheriff's offices are subject to Tennessee's open records laws and asked whether campus police departments are as well. Mr. MOREO said he wasn't sure, and that staff would look into how open records laws apply to campus police. Mayor FRANK suggested that, since campus police forces are authorized to

operate in the same capacity as municipal police, they should be subject to the same open records laws if they aren't already covered.

Councilman Chase CARLISLE said that records retention is important for criminal investigations and may be needed at a much later date after a complaint has been filed. However, he cautioned that requiring expensive electronic records management systems could be a significant burden for smaller schools. He also advised staff to research best practices for an appropriate time period for records retention. Mr. MOREO said that staff had begun research on those topics and would consider such burdens when making any recommendations in the draft report.

9. Public Chapter 1043, Acts of 2022 (Utility-Scale Solar Energy Development)—Draft Report for Review and Comment

Research Manager Jennifer BARRIE presented the draft report addressing solar development in the state for review and comment. The report was prepared in response to Public Chapter 1043, Acts of 2022, which directed the Commission to study 14 specific points—13 of which relate to utility-scale solar and one related to consumer protection for residential solar. The final report will be presented for the Commission's approval at the next meeting and must be sent to the General Assembly by September 30, 2023.

Ms. BARRIE said the development of solar power generation in Tennessee is happening at both the utility-scale and in the residential market, and stakeholders have expressed concerns about both. Through its investigation of the 14 points, staff found that many of the issues and concerns are not unique to the solar industry but more broadly apply to development in general. Because Tennessee already has tools to manage and regulate development, including solar development, and there is abundant information about it, the draft report recommends the Tennessee Department of Environment and Conservation's Office of Energy Programs continue to expand and maintain its existing website with additional guidance and resources on utility-scale and residential solar for local governments, landowners, developers, and the public, similar to Kentucky's and Georgia's websites. Representatives of the Office of Energy Programs say they are willing to do so. To address consumer protection, the report also recommends that the state consider raising the penalty for violations of the Consumer Protection Act if the good or service involved has a value greater than a monetary threshold set by the state.

Representative Patsy HAZLEWOOD asked whether there are projections for loss of farmland to all development over the next five to ten years. Ms. BARRIE said staff can add information to the final report about the loss of farmland through 2040 from the American Farmland Trust's *Farms Under Threat* report. Commissioner Jim BRYSON asked how many acres are required to make a utility-scale project economically viable. Ms. BARRIE said she does not have that information but will try to find it and include it in the final report. [Note: Staff found that many variables such as the interconnection cost, required studies, zoning, and whether the panels are roof or ground mounted or fixed or tracking affect the size of a facility and its economic viability.]

Mayor Rogers ANDERSON asked that the report explain the benefits to landowners and local governments of understanding and considering the long-term implications of leasing land to a

solar developer. He asked whether power that is sold to the Tennessee Valley Authority (TVA) counts toward its payments in lieu of taxes (PILOT) to Tennessee. Ms. BARRIE said she doesn't know but will find the answer. [Note: TVA's overall PILOT is not based on TVA's own power purchases; instead, it is based on TVA's gross proceeds from power sales to municipal utilities, electric cooperatives, and industries, excluding sales to federal agencies. Electricity purchased by TVA from solar facilities and then sold by TVA to local power companies and the industries that TVA serves directly would contribute to TVA's gross proceeds and would therefore count toward TVA's overall PILOT and the portion of it distributed to Tennessee. TVA also makes direct payments in lieu of taxes to counties in which it owns power property. If TVA were to own a solar facility, it would count as power property and would be subject to these direct payments, which are based on the two-year average of property taxes paid for the facility for the two years prior to its purchase by TVA.] In response to questions from Councilman Chase CARLISLE about the plan for storage and disposing of lithium batteries and the use of eminent domain in the future, Ms. BARRIE said staff would find information to answer those questions to add to the report. County Executive Jeff HUFFMAN asked whether the tax credits utility scale solar projects receive would reduce the amount of revenue local governments receive. [Note: Staff determined that the credits do not reduce the amount of property tax revenue a local government would receive.]

10. Senate Bill 2262/House Bill 2419 (Liquor-by-the-Drink Tax and Restaurant Regulations)— Panel

Research Associate Madison MOFFITT introduced panelists with knowledge of Tennessee's three-tier system for alcohol, alcohol-related laws and regulations, and the restaurant industry. Panelists included

- Shauna Billingsley, city attorney, City of Franklin;
- David Connor, executive director, Tennessee County Services Association;
- Rich Foge, president, Tennessee Malt Beverage Association;
- Ryan Haynes, executive director, Wine & Spirits Wholesalers of Tennessee;
- Brian Strutz, owner, A Dopo Pizza restaurant; and
- Russell Thomas, executive director, Tennessee Alcoholic Beverage Commission (TABC).

Ms. Shauna BILLINGSLEY said the liquor-by-the-drink tax is challenging and frustrating for the City of Franklin when it comes to limited-service restaurants. She said that Franklin is seeing businesses such as barber shops, axe throwing businesses, and spas receive liquor-by-the-drink licenses as a limited-service restaurant, and the city does not know how to tax them and make it fair. Currently, if your business does not sell very much food and you want to serve alcohol, the tax is approximately \$5,000 a year, which is expensive for small businesses, and the city does not have any leeway on changing that amount—the TABC administers the tax. (Note: Limited-service restaurants pay an annual privilege tax to the TABC based on the gross

sales of prepared food. The amount of the tax increases as the percentage of gross sales of prepared food decreases.)

Ms. BILLINGSLEY said she thinks more awareness should be brought to the Responsible Vendor Act for beer and wine vendors, where a business can complete additional alcohol training and have reduced permit fees and fines. In Franklin when they go to beer hearings, they find most businesses are not aware of this program. She said the only real option cities have to deal with a bad actor is to shut the business down, and the City of Franklin is interested in looking at other mechanisms of action to bring bad actors into compliance. She said Franklin supports new businesses being able to operate the type of business they want, but the city must ensure they have the regulation and regulatory authority in place to address bad actors.

Mayor Terry FRANK said servers are required to take a class to receive their permit and after five years must retake that class again. She asked whether safety would be harmed if the TABC went to a renewal process for server licenses. Mr. Russell THOMAS said that server education is important and TABC currently has a good system, but permit renewals are something the TABC could look into and discuss. Mr. Brian STRUTZ said the current system for server permitting is great and after his servers are retrained they are almost always more engaged in the law and in the responsibilities they share with the restaurant owner.

Mr. David CONNOR said local governments have the authority to regulate the sale of beer and the TABC regulates everything that contains over 8% alcohol by weight. Restaurant owners wanting to open and sell liquor and wine will need to go to the TABC for licensing, and to sell beer, the county or city board for their beer permit. He said the liquor-by-the-drink tax revenue is largely dedicated to education. Of the tax revenue, the first half goes into the state budget and is earmarked for educational purposes and the second half goes back to local governments, where it is divided half for local education while the remaining half is distributed to local governments on a situs basis. He said most of the tax revenue flows from the Department of Revenue to the municipalities because most locations that sell liquor-by-the-drink are within the city limits. Responding to Mayor FRANK, Mr. CONNOR clarified that three quarters of the liquor-by-the-drink tax goes to education at the state and local levels.

Representative LOVE asked whether the 15% liquor-by-the-drink tax helps enforce laws and regulations. Mr. THOMAS said that none of the 15% liquor-by-the-drink tax comes back to the TABC, and that the TABC gets their funding primarily from license fees and a small tax on cases of alcohol.

Mayor Rogers ANDERSON asked whether the liquor-by-the-drink tax is included in the maintenance of effort and whether Special School Districts (SSDs) that have taxing authority need to be concerned with the maintenance of effort. Mr. CONNOR said that the tax is included in the maintenance of effort and that he believes that SSDs have the same calculation for the maintenance of effort requirement as other districts. Mayor ANDERSON said that information about SSDs should be included in the report.

Mr. Rich FOGG said the Tennessee Malt Beverage Association is an organization of Tennessee's Beer Distributors, who have created 2,860 direct jobs across Tennessee. He said that these distributors are family-owned and that they value their role in Tennessee's three-tier system.

Mr. Ryan HAYNES said the wholesalers serve as the second tier in Tennessee's three-tiered system and help drive competition for better products and pricing, provide a controlled environment to monitor alcoholic products, and protect the public from consequences of irresponsible sales of alcoholic beverages. He said there is great responsibility with selling alcohol, and oftentimes a liberalization of alcohol laws can lead to great societal consequences. He said three things should be considered with each policy change: moderation, regulation, and control.

Mr. STRUTZ said that Tennessee's liquor-by-the-drink tax is the highest in the nation at 15% and that how the tax is implemented is confusing. He said the ability to profit from owning a restaurant has gradually been eroding over the last twenty years, especially over the last three years. Restaurants are having to rely on the profits from selling alcohol now more than ever, and the 15% tax they must charge on liquor and wine hurts their ability to do so.

Mr. Calvin CLIFTON asked for other states liquor-by-the-drink tax rates. In response, Mr. STRUTZ answered that nine states and Washington D.C. have a liquor-by-the-drink tax: Arkansas 14%, Kansas 10%, Maine 7%, North Dakota 2%, Oklahoma 13.5%, Tennessee 15%, Texas 14.5%, Vermont 10%, Washington 13.7%, and Washington D.C. 10.25%.

Ms. FRANK asked, if Tennessee were to lower the liquor-by-the-drink tax, would the state achieve greater compliance, and would restaurant owners avoid cheating the system? Mr. STRUTZ said he did not know what would happen if the state were to lower the tax, but there might be marginally better compliance. He said a lower tax rate would make restaurants that chose not to lower their drink prices more profitable.

Mr. STRUTZ said some restaurants will add the liquor-by-the-drink tax to the customer's bill at the end of their check, while others include it in their menu price—this causes confusion among customers and restaurant operators. Representative Harold LOVE asked whether larger businesses absorb the cost of the liquor-by-the-drink tax and smaller businesses pass it on to the customer. Mr. STRUTZ said he has anecdotal data from a coalition of independent restaurants that found an overwhelming majority of franchise and concept restaurants that are incorporated outside of the state of Tennessee immediately passed the tax on to the customer by adding it onto their menu prices, while the smaller, independent restaurants were reluctant to do so.

Mr. THOMAS said the TABC believes that good alcohol public policy can promote public health and safety and allows businesses to flourish. The health of the hospitality industry is vitally important to the success of the TABC, and it is of utmost concern that the industry is healthy and successful. The TABC devotes significant portions of our budget to recurring and non-recurring technology projects to make their customer experience as easy as possible. He said they most recently launched a feature in the My Tennessee Mobile application that is a convenience for servers and helps businesses verify the status of their server permits. He said that last year, the liquor-by-the-drink industry sold over \$1.3 billion of alcoholic beverages in

Tennessee and that Tennessee's alcohol industry members are some of the most successful in the country.

Mayor Buddy BRADSHAW said he would like to see some data on the percentage of new restaurants that succeed over a five-year period. Mr. STRUTZ replied that he was unsure, but he heard that 33% of restaurants fail in the first year. Mayor BRADSHAW requested that profit margins per bottle for liquor-by-the-drink sales be included in the report.

After the Commission decided to set the next meeting dates for September 27-28, 2023, Chairman Yager adjourned the meeting at 10:39 a.m.