

TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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

January 26, 2023

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

Present 16	Absent 6
Mayor Buddy Bradshaw	Mayor Rogers Anderson
Senator Heidi Campbell	Mayor Kevin Brooks
Councilman Chase Carlisle	Representative Patsy Hazlewood
Mr. Calvin Clifton	Representative Harold Love Jr.
Representative John Crawford	Mayor Larry Waters
Mayor Terry Frank	Senator Bo Watson
County Clerk Mary Gaither	
County Executive Jeff Huffman	
Senator Jon Lundberg	
Comptroller Jason Mumpower ¹	
Representative Antonio Parkinson	
Mr. Jeff Peach	
Commissioner Deniece Thomas	
Representative Ryan Williams	
Senator Ken Yager	
Senator Jeff Yarbro	

¹ Dana Spoonmore represented Jason Mumpower.

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 and received approval of the December 2022 meeting minutes.

2. Commission and Staff Update

Executive Director Cliff LIPPARD told the members that County Executive Jeff Huffman had been reappointed to the Commission, adding that having served since 1994, County Executive Huffman is the longest-serving current member.

Dr. LIPPARD then told the members that in recognition of their exceptional performance and potential, Chris Belden, Presley Powers, and Dr. Mike Strickland had each been promoted to Senior Research Associate. He also said that Presley recently completed her second graduate degree, an MPA from Tennessee State University.

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

Research Manager Bob MOREO presented the Commission's annual report on the Tennessee Valley Authority's (TVA) payments in lieu of taxes (PILOT) for the Commission's approval and said there are no recommended actions to be taken by the General Assembly in this year's report. He said TVA estimates its payment to Tennessee in federal fiscal year 2022-23 will increase by \$65 million to a total of \$410 million primarily because TVA's fuel costs for generating electricity increased as a result of higher natural gas prices; TVA passes these fuel costs on to customers, thereby increasing TVA revenue and the PILOT. Mr. MOREO said the possibility that a major local utility might leave the TVA system has diminished for the time being because, following a multiyear study of other power supply options, Memphis Light, Gas and Water decided to remain with TVA in December 2022.

Mr. MOREO said provisions in TVA's wholesale power contracts give its distributors flexibility to obtain renewable energy from sources other than TVA, which could affect TVA's overall PILOT, including payments to Tennessee, by reducing TVA revenue. But power purchased at wholesale from entities other than TVA is subject to the equivalent payments required by Public Chapter 1035, Acts of 2010—codified in Tennessee Code Annotated, Section 67-4-3101—which are added to payments received by TVA and distributed through Tennessee's TVA PILOT distribution formula. As of January 2023, there are only four utilities in Tennessee actively purchasing power from entities other than TVA, and no payments pursuant to that law have been made to the state. Mr. MOREO said Tennessee Department of Revenue staff are working to clarify aspects of the 2010 law's implementation related to the required payments.

In response to Chairman Ken YAGER's request for more information about power companies buying electricity from providers other than TVA and for further explanation of the payments required under the 2010 law, Mr. MOREO said TVA's flexibility agreements are relatively new, and the providers are required to make equivalent payments under the law. But the law also allows the companies selling this power to count other business taxes they pay as credits towards the payments required by the 2010 law, and TACIR staff don't know the extent to which those other taxes offset these payments as this is the first time power sales subject to the law have occurred. Chairman YAGER requested TACIR staff meet with him to discuss the

matter in more detail. [Note: Staff met with Chairman YAGER on February 8, 2023. Pursuant to the meeting, staff will continue to monitor local power companies' purchases from entities other than TVA for their effect both on the PILOT and on distributions to local governments through the state's TVA PILOT distribution formula.]

In response to County Executive Jeff HUFFMAN's question about how newly built TVA power infrastructure affects TVA's payments to counties in which the new infrastructure is located, Mr. MOREO said Tennessee sets aside a portion of its allotted PILOT for areas affected by TVA construction projects, and TVA makes direct payments to counties for certain types of properties it acquires. Mr. MOREO also said that new infrastructure can affect each state's and county's allocated share of the PILOT based on each state's share of total TVA power property. County Executive HUFFMAN asked whether, as in the case of a 55-acre substation property being built to serve the West Tennessee Megasite and Ford's Blue Oval City, a county can project what revenue it should expect from TVA in lieu of taxes on that property and said it might be helpful for counties to know how much revenue to expect so that they can plan ahead for improvements to support large TVA projects. Director of Policy Matt OWEN responded that under federal law, TVA's direct payments to counties are equal to the two-year average of property taxes levied against a property for the final two years it was privately owned, and Mr. MOREO said TACIR staff did not look at the values of individual properties for this report.

In response to County Executive HUFFMAN's question about how direct payments would be determined in cases where the property was owned by the state when TVA purchased it, Dr. OWEN said staff would look into whether, in that case, TVA would base payments on taxes levied prior to the state acquiring the property. [Note: According to TVA staff, when TVA acquires property that was owned by another governmental entity, that property isn't included in the direct payments to counties tax calculation. The TVA Act specifies that the property must have been privately owned and operated.]

Chairman YAGER asked whether a property's value affects the impact payments local governments receive. Dr. OWEN responded that impact payments to areas with TVA construction are made through the state's distribution formula and are not determined by property values. In response to Representative Ryan WILLIAMS' question about whether local governments receive some payments in lieu of taxes from TVA based not only on previous property value but on improved property value after investments, Mr. MOREO said he was not aware of any payments based on improvements, and TVA's direct payments to counties are based on taxes levied before TVA's ownership. Representative WILLIAMS suggested the Commission look further into the property ownership and tax implications of TVA's infrastructure projects at the Blue Oval Megasite.

Representative WILLIAMS moved approval of the report, which was seconded by Representative Antonio PARKINSON. 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 report for approval. Mr. CARPENTER said the report documents \$62.9 billion of needed infrastructure improvement projects, which were in development during the five-year period of July 2021 through June 2026.

Senator Jon LUNDBERG asked about the year-to-year percentage growth of transportation needs per capita—specifically over the last 10 to 15 years. Mr. CARPENTER said the percentage has grown consistently over the years, but there was a 4% decrease in total needs from 2020 to 2021. Senator LUNDBERG requested that Mr. CARPENTER follow up with him with more details. (Note: Mr. CARPENTER provided the information to Senator LUNDBERG after the meeting).

Mr. Jeff PEACH suggested that some needs—such as solid waste infrastructure in Rutherford County—may not be accounted for in the inventory. Mr. CARPENTER explained that if a need was not reported to TACIR and was in some stage of development by July 1, 2021, then it would not be reflected in the inventory but could be accounted for in next year’s inventory.

Senator Heidi CAMPBELL asked whether TACIR had completed any retrospective analyses to determine whether the state was meeting cost expectations. Mr. CARPENTER said that most completed projects match their projected costs.

Representative Ryan WILLIAMS asked for clarification regarding the inventory window and the projection of project costs. Mr. CARPENTER said the inventory window for the current report is July 2021 through June 2026 and that projects scheduled to be in some stage of development during this period are included along with the estimated project costs.

Representative WILLIAMS asked whether any new sources of federal funding for public infrastructure are reflected in the report. Mr. CARPENTER said that staff reviewed the new federal funding coming to Tennessee from the American Rescue Plan and the Infrastructure Investment and Jobs Act and determined that some projects in the current inventory show these funding sources, but projects funded with these dollars are most likely to be identified in next year's report or even the following year. Representative WILLIAMS said it would be beneficial to see the effect of federal funds on unfunded needs to inform budgeting decisions.

Executive Director Cliff LIPPARD said that staff reported on the effect of the pandemic on infrastructure costs, and it may be possible for TACIR to include a review of the net effect of federal funds in the follow-up report, which has been postponed while staff focuses on other reports.

Mayor Terry FRANK said the East Tennessee Development District (ETDD) recently had a meeting that was complimentary of the infrastructure report, and that they are working to identify ways to best apply the information from the report to the needs of local government. Mayor FRANK described the report as a good springboard for local governments to meet infrastructure needs and said ETDD may have recommendations for how to modify the county summary page so local governments can better identify their own needs.

County Executive Jeff HUFFMAN asked whether the survey would address the recent legal changes to class size requirements and recommended that schools account for that. Mr. CARPENTER said school systems are generally aware of legal requirements related to class size and changes to legal requirements would be reflected in the information schools provide to the surveyors.

Representative John CRAWFORD moved approval of the report. Senator LUNDBERG provided a second for the motion. The report was unanimously approved.

Upon approval of the infrastructure report, County Executive HUFFMAN made a motion for TACIR to study the condition and affordability of wastewater and sewer systems, particularly in west Tennessee around Blue Oval City. He requested an assessment of how many wastewater and sewer systems have enforcement letters pending as of a date certain. County Executive HUFFMAN asked, “Are there best practices that can be identified in other states? Are there new technologies available that haven’t been available before? What systems have not worked that others should avoid? Lastly, are there ways to help offset the costs of these systems?” Senator Jeff YARBRO seconded the motion for the study and the motion was unanimously approved.

5. Reference-Based Pricing—Final Report for Approval

Senior Research Associate Dr. Michael STRICKLAND presented the final report on reference-based pricing in healthcare, summarizing its findings. The report was prepared in response to Senate Bill 2330 by Senator Hensley and House Bill 2456 by Representative Sparks, which directed the Commission to study the effects of reference-based pricing on health insurance prices. Councilman Chase CARLISLE offered a comment that the study should perhaps have been directed at a different question than what the original study request had posed, instead examining the state’s position on the healthcare market and why it did not operate more freely. Representative Antonio PARKINSON made a motion to approve the report. It was seconded by Representative Ryan WILLIAMS, and the report was approved unanimously.

6. Comprehensive Litter Review—Final Report for Approval

Research Manager Jennifer BARRIE presented the final report addressing litter and illegal dumping for the Commission’s approval. Ms. BARRIE said staff added language to the report to address Commission members’ questions at the December 2022 meeting. In response to Mayor Kevin BROOKS’ question about the bills that would have implemented the Commission’s recommendations from the 2020 waste tire report, language was added clarifying that “The Senate bill was assigned to the General Subcommittee of the Senate Energy, Agriculture, and Natural Resources Committee, and the House bill failed in the House Agriculture and Natural Resources Subcommittee.” In response to Senator Jon LUNDBERG’s concern that the Tennessee Department of Transportation (TDOT) Highway Beautification Office’s special litter grant application is burdensome for small municipalities, staff added the language “Beautification Office staff said they will review the special litter grant application process and look for ways to simplify and improve the process to help more cities apply.” Ms. BARRIE said the report’s recommendations have not changed.

Senator Heidi CAMPBELL asked about the process of creating a task force. Executive Director Cliff LIPPARD said the Commission has experience with the broadband task force being implemented based on a recommendation in a Commission report and explained that Commission reports go to the General Assembly and are shared with committee chairs when a study is requested by a specific committee and with relevant departments. Representative Ryan WILLIAMS said the sponsor of the bill directing the study would usually be responsible to file a

bill to implement a Commission recommendation, and any member of the General Assembly can file a bill to start a task force.

Chairman Ken YAGER asked Ms. BARRIE to address his concern that a permanent task force would create another level of bureaucracy and divert funds from local communities. Ms. BARRIE said that a statewide group would coordinate efforts across the state, support local governments, improve efficiency, and hopefully reduce redundancy. Senator YAGER said that the Governor's Office of Faith-Based and Community Initiatives could be tasked with the coordination of groups. He said he is not seeking to amend the report, but this is something staff might want to look at. [Note: TACIR staff reviewed the duties and responsibilities of the office, which was created in 2019 as a self-funded, independent, nonprofit organization established to bring together faith communities, nonprofits, civic organizations, and state and local governments to recognize and implement best practices with the shared goal of making life better for every Tennessean. Litter pick-up is not currently one of the five issues they focus on.]

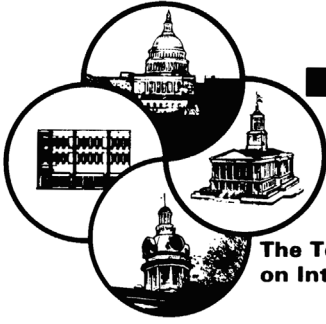
Chairman YAGER asked whether staff reviewed the text of the state's litter laws. Ms. BARRIE said staff did review the laws—there are levels of offenses laid out in the law with penalties. But catching people in the act of littering is a challenge, and the previous fine of \$50 [currently \$500] might not have provided much of an incentive to try to catch people. She said the recommendation for training and education is based on research, including interviews with stakeholders and experts—and deliberately includes prosecutors and judges to help lead to more prosecutions.

Chairman YAGER asked where unspent litter grant funds go and whether the litter grant fund balance is growing or is used on programs. Ms. BARRIE said that the unspent funds stay in the litter grant fund and are used for other litter prevention programs like the special litter grants and the Nobody Trashes Tennessee campaign. The Beautification Office allows the unspent funds to accumulate, and every couple of years that office allocates the funds for special litter grants.

In response to Representative WILLIAMS' question about how much the litter grant is annually, Ms. BARRIE said \$5.5 million, and Representative WILLIAMS said the litter problem may be related to funding level.

Senator LUNDBERG moved approval of the final report with County Executive Jeff HUFFMAN seconding the motion. The report was approved unanimously.

Chairman Yager adjourned the meeting at 2:24 p.m.



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

January 27, 2023

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room III of the Cordell Hull Building at 8:33 a.m., Senator Ken Yager presiding.

Present 14	Absent 8
Mayor Buddy Bradshaw	Mayor Rogers Anderson
Senator Heidi Campbell	Mayor Kevin Brooks
Mr. Calvin Clifton	Councilman Chase Carlisle
Representative John Crawford	Representative Patsy Hazlewood
Mayor Terry Frank	Senator Jon Lundberg
County Clerk Mary Gaither	Commissioner Deniece Thomas
County Executive Jeff Huffman	Mayor Larry Waters
Representative Harold Love Jr.	Senator Bo Watson
Comptroller Jason Mumpower ¹	
Representative Antonio Parkinson	
Mr. Jeff Peach	
Representative Ryan Williams	
Senator Ken Yager	
Senator Jeff Yarbro	

¹ Dana Spoonmore represented Jason Mumpower.

7. Passenger Rail And Mobility – Panel

Senior Research Associate Chris BELDEN introduced panelists from Virginia, North Carolina, Amtrak, and the Tennessee Department of Transportation (TDOT) who discussed their respective experiences and perspectives regarding the implementation, development, and funding of state-supported passenger rail projects. The panelists included:

- Julie White, chair, Southeast Corridor Commission, and deputy secretary for Multimodal Transportation, North Carolina Department of Transportation;
- Mike McLaughlin, chief operating officer, Virginia Passenger Rail Authority;
- Nicole Bucich, vice president of network development, Amtrak; and
- Daniel Pallme, assistant chief of environment and planning, and director of freight and logistics, Tennessee Department of Transportation.

Ms. WHITE said the Amtrak Carolinian service between Charlotte and New York City was introduced in 1990, which has one round trip per day; and the Piedmont service between Charlotte and Raleigh was introduced in 1995, which has four round trips per day. She said North Carolina's state-supported Amtrak services experienced a record-setting year in ridership during 2022, with 522,550 people riding. The Carolinian and Piedmont routes are subsidized with approximately \$9 million per year in appropriations from North Carolina's legislature. To support future growth, North Carolina will be submitting several new corridors to the Federal Railroad Administration's (FRA) Corridor ID program, using any funds received from this program to conduct feasibility studies.

Ms. WHITE said it is important to collaborate with freight railroads, using North Carolina's S-Line project as an example. To minimize delays for both freight and passenger rail, the state purchased sections of the line from freight railroads to separate freight and passenger rail. She said working with local communities to maximize the benefits of passenger rail is another key to success, as well as having a well-staffed rail division to successfully acquire grant funding and deliver passenger rail projects on time.

Mr. MCLAUGHLIN said Virginia has four state-supported Amtrak routes which make a combined eight daily roundtrips, as well as two commuter routes operated by the Virginia Railway Express, with passenger rail receiving bipartisan support from stakeholders, partly as a means to reduce congestion on Virginia's roadways.

Mr. MCLAUGHLIN said the state negotiated with Class I freight railroads to acquire railroad tracks in some areas and to increase the frequency of passenger trains in others. He said negotiating agreements with the Class I railroads that benefit both passenger rail and freight rail is important. The Virginia Passenger Rail Authority (VPRA) was created in 2020 and was tasked with managing passenger rail in the state. He said that over \$1 billion in funding from the state is coming to the VPRA in the next six years.

Mr. MCLAUGHLIN described infrastructure improvements that will be made in the future to enhance capacity for passenger rail, including the construction of a passenger rail bridge over

the Potomac River into Washington D.C. He said ridership among the state-supported Amtrak routes is at an all-time high. Stressing the importance of leveraging federal funding opportunities to advance passenger rail, he said \$87,455,829 in federal funds have been awarded to Virginia for passenger rail and the state is currently applying for a combined \$634 million to be used for passenger rail.

Ms. BUCICH described Amtrak's Connects US plan to develop and expand the nation's passenger rail network, which was announced in March 2021. She said this plan, which included 39 new routes and 20 million new riders across the country, was developed before the passing of the Infrastructure Investment and Jobs Act (IIJA) and is a starting point for the future of passenger rail in the country. As federal funding from IIJA has become available, Ms. BUCICH said Amtrak's Network Development team was recently created to support the development of new passenger rail corridors.

Ms. BUCICH said the Federal Railroad Administration's Corridor ID program, a competitive grant program for the planning and development of passenger rail, will award \$500,000 with no local match to grantees as part of its first phase, and that applications for the first round of funding are due March 20, 2023.

In any state-supported service, Ms. BUCICH said a state must provide funding when the revenue received does not cover all expenditures. She said Amtrak has financial models that can estimate ridership, revenue, operating costs, and state subsidies. Ticket prices, which are the main source of revenue, are largely driven by states. Also, the FRA's Rail Restoration and Enhancement program is a grant program that can help provide revenue for operating costs for the first six years that a service is in existence.

Mr. PALLME described the pros and cons of passenger rail from the perspective of the Tennessee Department of Transportation. He said passenger rail has the potential to improve mobility choices and reduce congestion but there are considerable costs to establishing passenger rail. TDOT is currently studying potential mobility options for the Blue Oval site in west Tennessee, including a potential passenger rail route from Jackson to Memphis with a stop at the Blue Oval site. He said the movement of freight in and out of the Blue Oval facility is a major consideration when studying mobility options. Sustainable funding is another consideration when establishing passenger rail.

Representative Antonio PARKINSON asked whether the numbers for the Virginia study were from ticket sales alone and whether the study included additional revenue numbers from increased tourism. Mr. MCLAUGHLIN said the study was preliminary and Virginia's other routes fare much better than the projections from that study on that particular route. He said he does not think the Virginia study has numbers on additional revenue from tourism. Representative PARKINSON suggested that it's important for TACIR staff to include the effect from areas outside of ticket sales when studying passenger rail.

Senator Heidi CAMPBELL asked whether Virginia and North Carolina's passenger rail divisions were set up under their respective departments of transportation. Mr. MCLAUGHLIN said VPRA is separate from the Virginia Department of Transportation

(VDOT) and the state has a Commissioner of Transportation that oversees VDOT and VPRA along with the Department of Rail and Public Transportation. Ms. WHITE said North Carolina's rail division is under the state's department of transportation.

In response to Senator CAMPBELL'S question regarding how to identify the most feasible routes in the state, Ms. BUCICH said a service development plan is typically performed which looks at projected ridership and service levels. She said this used to be performed and financed by states but can now be done by states using funds from the FRA's Corridor ID program.

County Executive Jeff HUFFMAN asked how the increased freight associated with the Blue Oval site will affect nearby highways and the potential for passenger rail. Mr. PALLME said the Memphis Metropolitan Planning Organization recently completed a study that looked at freight volumes in the area and that CSX would likely need to complete a Rail Traffic Control study to determine the increased freight's effect on potential passenger rail in the area.

In response to Representative Ryan WILLIAMS'S question regarding whether ridership is based on the number of individual ticket riders or how many tickets are sold, Ms. BUCICH said there are ridership models that are very complex and are based on inputs like projected future populations and projected growth and usually measure ridership by one-way trips. She said there are examples of new services that have outpaced ridership projections from the first day. She said that Amtrak has occasionally done in-house ridership modeling for the state and modeled ridership for the potential routes in the Connects US plan, one of which being Nashville to Atlanta. Representative WILLIAMS asked what the ridership looked like for the Nashville to Atlanta route. Ms. BUCICH said that she would provide those numbers to TACIR staff. Mr. MCLAUGHLIN said the ridership projections for a potential route from Lynchburg, Virginia to Washington D.C. were 33,000 people in its first year and that the actual numbers were greater than 100,000 people. Representative WILLIAMS asked how many of those riders were tourists and how many were commuters. Mr. MCLAUGHLIN said surveys would be needed to assess what the exact distribution was, but that it is a mix between tourists, commuters, and college students.

Senator Jeff YARBRO asked whether TDOT was aware of any entities that are going to apply for the Corridor ID program. Mr. PALLME said TDOT is awaiting the results of the TACIR study to determine which routes to apply for.

In response to Senator YARBRO's question regarding how to balance freight rail with passenger rail when looking to establish passenger rail, Mr. MCLAUGHLIN said that positive relationships with freight railroads are important. He said that working with freight railroads to determine necessary infrastructure improvements to ensure that passenger rail does not interfere with freight rail is also important.

Mayor Terry FRANK asked Mr. MCLAUGHLIN to explain VPRA's funding model. Mr. MCLAUGHLIN said that VPRA receives \$1 billion from state appropriations as well as other funding from other sources in the state and that VPRA receives more funding as its revenue increases.

Mayor FRANK asked whether data is available regarding the cost per passenger of passenger rail to compare with the cost per traveler of highway travel and whether there are metrics for a reduction in roadway congestion. Ms. BUCICH said that these sorts of statistics would have to be measured within a service development plan.

In response to Chairman Ken YAGER'S question regarding who would be responsible to ask for a service development plan, Ms. BUCICH said that within the Corridor ID process funds would be allocated for a service development plan.

Representative PARKINSON asked whether there is a correlation between the establishment of Amtrak passenger rail and economic growth. Ms. BUCICH said that local Metropolitan Planning Organizations have future projections for population and employment numbers and Amtrak uses this information to project how many people would use a potential passenger rail service.

Representative PARKINSON asked why there are no routes between Nashville and the western states. Ms. BUCICH said the development of the Corridor ID program opens the opportunity for any route to be studied. In response to Representative LOVE's question on how long it would take to get ridership projections from Amtrak, Ms. BUCICH said the Nashville to Atlanta route can be produced within two to three weeks as it was already studied by the Connects US plan but the other routes may take until later in the spring to be produced.

Mayor Buddy BRADSHAW suggested that TACIR staff evaluate the potential correlation between housing costs and passenger rail.

County Clerk Mary GAITHER asked how many states were currently partnering with Amtrak through state-supported services, to which Ms. BUCICH said 19 states are currently partnered with Amtrak.

Chairman YAGER asked why a route from Nashville to Chattanooga to Savannah, GA was identified by Amtrak but not on the map provided by the Southeast Corridor Commission. Ms. BUCICH said an expression of interest was submitted by the mayors of Nashville, Chattanooga, Atlanta, and Savannah. Ms. WHITE said that the map from the Southeast Corridor Commission was from last year and may not be up to date.

In response to Mr. Calvin CLIFTON'S question regarding how the rural nature of Tennessee would affect a state subsidy to Amtrak, Ms. BUCICH said that FRA uses criteria that give a preference to serving underserved and rural areas. Representative PARKINSON asked what the benefits are of having passenger rail stops in rural areas. Ms. BUCICH said that it is providing a service to people that did not previously exist.

Executive Director Cliff LIPPARD asked whether the state has applied to the Corridor ID program. Ms. BUCICH said TDOT submitted an expression of interest letter, which is different than an application, and that an application would need to be submitted before March 20th to officially apply.

Following a decision to poll the members for July meeting dates, Chairman Yager adjourned the meeting at 10:24 a.m.