

MONDAY, MAY 10, 2004

EIGHTY-EIGHTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 4:00 p.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Senator Mike Williams.

PLEDGE OF ALLEGIANCE

Senator Norris led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 33

Senators present were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

PRESENTATION

Senator Burchett presented **Senate Joint Resolution No. 972** to Steve Cropper.

REPORT OF COMMITTEE ON DELAYED BILLS

Pursuant to Rule 27, the following bill was reported out of Committee on Delayed Bills: Senate Bill No. 3522.

WILDER, Chairperson
May 10, 2004

The Speaker announced that he had referred Senate Bill No. 3522 to the Clerk's desk.

INTRODUCTION OF BILLS

The Speaker announced that the following bills were filed for introduction and passed first consideration:

Senate Bill No. 3522 by Senator Haynes.

Food and Food Products -- Exempts from food service establishment requirements occasional sales of food by senior citizens community centers that are less than 125 hours in duration. Amends TCA Section 68-14-302(6).

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senate Bill No. 3523 by Mr. Speaker Wilder.

Fayette County -- Subject to local approval, authorizes Fayette County adequate facilities tax.

Senate Bill No. 3524 by Senator Beavers.

Macon County -- Subject to local approval, authorizes Macon County to levy and collect a development/impact fee.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 3249 -- Highway Signs -- Designates several segments of highway in Tennessee as the "Purple Heart Trail".

House Bill No. 3479 -- Taxes, Sales -- Authorizes Commissioner of Revenue to enter into managed compliance agreements concerning sales and use tax rates with an eligible dealer in certain circumstances. Amends TCA, Title 67, Chapter 6.

SENATE BILLS ON SECOND CONSIDERATION

The Speaker announced that the following bills passed second consideration and were referred to the appropriate committee:

Senate Bill No. 3512 held on desk.

Senate Bill No. 3513 held on desk.

Senate Bill No. 3514 held on desk.

Senate Bill No. 3515 held on desk.

Senate Bill No. 3516 referred to Committee on State and Local Government.

Senate Bill No. 3517 held on desk.

Senate Bill No. 3518 held on desk.

Senate Bill No. 3519 held on desk.

Senate Bill No. 3520 held on desk.

Senate Bill No. 3521 held on desk.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 1147 by Senator Henry.
Memorials, Death -- Marvin Runyon.

Senate Joint Resolution No. 1148 by Senator Cooper.
Memorials, Retirement -- Michael L. Countess.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senate Joint Resolution No. 1149 by Senator Trail.
Naming and Designating -- "National Drug Court Month" in Tennessee, May 2004.

Senate Joint Resolution No. 1150 by Senator Person.
Memorials, Public Service -- Kenneth Robert McKnight.

Senate Joint Resolution No. 1151 by Senator Crowe.
Memorials, Public Service -- Dr. Paul and Mrs. Betty Brown.

Senate Resolution No. 218 by Senator Harper.
Memorials, Interns -- Sha-Londe Bilbrey.

Senate Resolution No. 219 by Senator Burchett.
Memorials, Congratulations -- Joe and Teresa Diffie on the birth of Kylie Tarissa Diffie.

Senate Resolution No. 220 by Senator Dixon.
Memorials, Public Service -- Judy Faye Peebles.

RESOLUTIONS LYING OVER

House Joint Resolution No. 939 -- Highway Signs -- Names a portion of SR 423 in McKenzie the "Paul Carroll Road".

The Speaker announced that he had referred House Joint Resolution No. 939 to Committee on Transportation.

House Joint Resolution No. 1011 -- Highway Signs -- "Clarence A. Powell Memorial Bridge", Duck River on U.S. 31A near Henry Horton State Park.

The Speaker announced that he had referred House Joint Resolution No. 1011 to Committee on Transportation.

House Joint Resolution No. 1207 -- Memorials, Public Service -- Burkett Witt.

The Speaker announced that he had referred House Joint Resolution No. 1207 to Committee on Calendar.

Senate Joint Resolution No. 1123 -- Memorials, Retirement -- Mike Countess.

The Speaker announced that he had referred Senate Joint Resolution No. 1123 to Committee on Calendar.

Senate Joint Resolution No. 1124 -- Memorials, Interns -- Krista Lee.

The Speaker announced that he had referred Senate Joint Resolution No. 1124 to Committee on Calendar.

Senate Joint Resolution No. 1125 -- Memorials, Interns -- Ian Rubinfeld.

The Speaker announced that he had referred Senate Joint Resolution No. 1125 to Committee on Calendar.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senate Joint Resolution No. 1126 -- Memorials, Death -- Steven Wright.

The Speaker announced that he had referred Senate Joint Resolution No. 1126 to Committee on Calendar.

Senate Joint Resolution No. 1127 -- Memorials, Interns -- Brent J. Chapman.

The Speaker announced that he had referred Senate Joint Resolution No. 1127 to Committee on Calendar.

Senate Joint Resolution No. 1128 -- Memorials, Congratulations -- Sandy Shelton.

The Speaker announced that he had referred Senate Joint Resolution No. 1128 to Committee on Calendar.

Senate Joint Resolution No. 1129 -- Memorials, Congratulations -- Randy Brewer.

The Speaker announced that he had referred Senate Joint Resolution No. 1129 to Committee on Calendar.

Senate Joint Resolution No. 1130 -- Memorials, Recognition -- Dwight Wilkerson.

The Speaker announced that he had referred Senate Joint Resolution No. 1130 to Committee on Calendar.

Senate Joint Resolution No. 1131 -- Memorials, Congratulations -- Denise Hughes Ray.

The Speaker announced that he had referred Senate Joint Resolution No. 1131 to Committee on Calendar.

Senate Joint Resolution No. 1132 -- Memorials, Academic Achievement -- Courtney Rogers, Valedictorian, William Blount High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1132 to Committee on Calendar.

Senate Joint Resolution No. 1133 -- Memorials, Academic Achievement -- Erin Michelle French, Valedictorian, William Blount High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1133 to Committee on Calendar.

Senate Joint Resolution No. 1134 -- Memorials, Retirement -- Russ Cyphers.

The Speaker announced that he had referred Senate Joint Resolution No. 1134 to Committee on Calendar.

Senate Joint Resolution No. 1135 -- Memorials, Congratulations -- Zeta Chapter of Pi Kappa Alpha Fraternity, Robert Adger Smythe Award.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

The Speaker announced that he had referred Senate Joint Resolution No. 1135 to Committee on Calendar.

Senate Joint Resolution No. 1136 -- Memorials, Interns -- Marie Stacey.

The Speaker announced that he had referred Senate Joint Resolution No. 1136 to Committee on Calendar.

Senate Joint Resolution No. 1137 -- Memorials, Academic Achievement -- Christian Crouch, Valedictorian, Franklin County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1137 to Committee on Calendar.

Senate Joint Resolution No. 1138 -- Memorials, Academic Achievement -- Jamie Liebenow, Valedictorian, Kingsbury High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1138 to Committee on Calendar.

Senate Joint Resolution No. 1139 -- Memorials, Recognition -- Jennie H. Dulaney.

The Speaker announced that he had referred Senate Joint Resolution No. 1139 to Committee on Calendar.

Senate Joint Resolution No. 1141 -- Memorials, Interns -- Richard Smith.

The Speaker announced that he had referred Senate Joint Resolution No. 1141 to Committee on Calendar.

Senate Joint Resolution No. 1142 -- Memorials, Public Service -- J.D. Elliott, 2004 Crowning Achievement Award.

The Speaker announced that he had referred Senate Joint Resolution No. 1142 to Committee on Calendar.

Senate Joint Resolution No. 1143 -- Memorials, Congratulations -- Mt. Juliet High School Choir.

The Speaker announced that he had referred Senate Joint Resolution No. 1143 to Committee on Calendar.

Senate Joint Resolution No. 1144 -- Memorials, Public Service -- Holly Petraeus.

The Speaker announced that he had referred Senate Joint Resolution No. 1144 to Committee on Calendar.

Senate Joint Resolution No. 1145 -- Memorials, Congratulations -- Montgomery Central High School Drill Team.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

The Speaker announced that he had referred Senate Joint Resolution No. 1145 to Committee on Calendar.

Senate Joint Resolution No. 1146 -- Memorials, Heroism -- Major General David H. Petraeus.

The Speaker announced that he had referred Senate Joint Resolution No. 1146 to Committee on Calendar.

Senate Resolution No. 217 -- Memorials, Death -- Judge Houston Monroe Goddard.

The Speaker announced that he had referred Senate Resolution No. 217 to Committee on Calendar.

NOTICES

Pursuant to Rule 44, notice was given that the following bill was returned from the House of Representatives amended. Under the rule, the bill lies over.

MESSAGE FROM THE HOUSE

May 6, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3226, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

**REPORT OF GAMING EVENT APPLICATIONS
FROM THE
SECRETARY OF STATE'S OFFICE**

The Report was received and filed with the Clerk.

**REPORT OF CONFERENCE COMMITTEE
ON SENATE BILL 2833 / HOUSE BILL 2813**

The Report was received and filed with the Clerk.

MOTION

Senator Person moved that Rule 38 be suspended for the purpose of placing **Senate Joint Resolution No. 1150** on Consent Calendar No. 1 for today, which motion prevailed.

CONSENT CALENDAR NO. 1

Objections having been raised, the following resolution was placed at the heel of the calendar for Thursday, May 13, 2004, pursuant to Rule 38: **House Joint Resolution No. 1184**.

House Joint Resolution No. 1135 -- Memorials, Professional Achievement -- Tommy Allen, Tennessee Teachers Hall of Fame.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

House Joint Resolution No. 1138 -- Memorials, Heroism -- Volunteer Fire Departments of Sumner County.

House Joint Resolution No. 1139 -- Memorials, Professional Achievement -- Nina Wood, Sumner County and Upper Cumberland Region Teacher of the Year.

House Joint Resolution No. 1140 -- Memorials, Recognition -- Dr. Ron Aday.

House Joint Resolution No. 1142 -- Memorials, Recognition -- Donna Duncan.

House Joint Resolution No. 1143 -- Memorials, Academic Achievement -- Hannah Armstrong, Valedictorian, Hickman County High School.

House Joint Resolution No. 1144 -- Memorials, Personal Occasion -- Tom Thompson Sugg, Sr., 100th birthday.

House Joint Resolution No. 1145 -- Memorials, Recognition -- Jim and Vic Loyd.

House Joint Resolution No. 1146 -- Memorials, Academic Achievement -- Margaret Ruth Hutchens, Salutatorian, Hickman County High School.

House Joint Resolution No. 1147 -- Memorials, Academic Achievement -- Brianne Lankford, Valedictorian, Oliver Springs High School.

House Joint Resolution No. 1148 -- Memorials, Academic Achievement -- Megan Lunsford, Salutatorian, Oliver Springs High School.

House Joint Resolution No. 1149 -- Memorials, Academic Achievement -- Anthony Lee, Salutatorian, Dickson County High School.

House Joint Resolution No. 1150 -- Memorials, Academic Achievement -- Jessica Terry, Valedictorian, Jellico High School.

House Joint Resolution No. 1151 -- Memorials, Academic Achievement -- Cara Jean Williams, Salutatorian, Jellico High School.

House Joint Resolution No. 1152 -- Memorials, Academic Achievement -- Sarah Berry, Valedictorian, Union County High School.

House Joint Resolution No. 1153 -- Memorials, Academic Achievement -- A. J. Bennett, Valedictorian, Union County High School.

House Joint Resolution No. 1154 -- Memorials, Academic Achievement -- Amy Merritt, Valedictorian, Union City High School.

House Joint Resolution No. 1155 -- Memorials, Academic Achievement -- Jessica Wenger West, Valedictorian, Union County High School.

House Joint Resolution No. 1156 -- Memorials, Academic Achievement -- Chance Donahue, Salutatorian, Campbell County High School.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

House Joint Resolution No. 1157 -- Memorials, Academic Achievement -- Brandon Lawson, Valedictorian, Campbell County High School.

House Joint Resolution No. 1158 -- Memorials, Academic Achievement -- Ashlie Nicole Chaniott, Valedictorian, Campbell County High School.

House Joint Resolution No. 1159 -- Memorials, Professional Achievement -- W.T. "Bill" Ratliff, Jr., 59th President of Tennessee Road Builders Association.

House Joint Resolution No. 1160 -- Memorials, Public Service -- Zach Frye, Make a Difference Day 2004 Winner.

House Joint Resolution No. 1161 -- Memorials, Public Service -- Doris Einecker.

House Joint Resolution No. 1162 -- Memorials, Interns -- Alison Ross Wickizer.

House Joint Resolution No. 1163 -- Memorials, Interns -- Richard "Todd" Reilly.

House Joint Resolution No. 1164 -- Memorials, Recognition -- Cyndee Rice Sims.

House Joint Resolution No. 1165 -- Memorials, Recognition -- Dorothy Peoples.

House Joint Resolution No. 1166 -- Memorials, Academic Achievement -- Ashley Hopson, Salutatorian, Union County High School.

House Joint Resolution No. 1167 -- Memorials, Academic Achievement -- Chris Fox, Valedictorian, Union County High School.

House Joint Resolution No. 1168 -- Memorials, Academic Achievement -- Emily Hunsaker, Valedictorian, Union City High School.

House Joint Resolution No. 1169 -- Memorials, Academic Achievement -- Leslie Marie Yarberry, Valedictorian, Union County High School.

House Joint Resolution No. 1170 -- Memorials, Academic Achievement -- Brittany DeAnn Berry, Valedictorian, Union County High School.

House Joint Resolution No. 1171 -- Memorials, Academic Achievement -- Lucas Sams, Valedictorian, Union County High School.

House Joint Resolution No. 1172 -- Memorials, Academic Achievement -- Donald Matthew Wahlman, Co-Salutatorian, Zion Christian Academy.

House Joint Resolution No. 1173 -- Memorials, Academic Achievement -- Neylan Roberts, Valedictorian, Mount Pleasant High School.

House Joint Resolution No. 1174 -- Memorials, Academic Achievement -- Crystal Hoonhorst, Co-Valedictorian, Zion Christian Academy.

House Joint Resolution No. 1175 -- Memorials, Academic Achievement -- Paige Provey, Salutatorian, Culleoka High School.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

House Joint Resolution No. 1176 -- Memorials, Academic Achievement -- Jake Danels, Valedictorian, Culleoka High School.

House Joint Resolution No. 1177 -- Memorials, Academic Achievement -- Allison Hammell, Valedictorian, Spring Hills High School.

House Joint Resolution No. 1178 -- Memorials, Academic Achievement -- Lacey Ring, Valedictorian, Columbia Academy.

House Joint Resolution No. 1179 -- Memorials, Academic Achievement -- Lindsey Creech, Salutatorian, Columbia Academy.

House Joint Resolution No. 1180 -- Memorials, Interns -- David Patrick Johnson.

House Joint Resolution No. 1181 -- Memorials, Interns -- Mandy Spears.

House Joint Resolution No. 1182 -- Memorials, Academic Achievement -- Blake William Jones, Valedictorian, Dickson County High School.

House Joint Resolution No. 1183 -- Memorials, Recognition -- Reverend Joseph Breen, 20th anniversary at St. Edwards Parish.

House Joint Resolution No. 1185 -- Memorials, Recognition -- Thomas-Landon House at Freed-Hardeman University.

House Joint Resolution No. 1186 -- Memorials, Recognition -- Dr. Robert F. Landon.

House Joint Resolution No. 1187 -- Memorials, Recognition -- Ouida Heady Landon.

House Joint Resolution No. 1188 -- Memorials, Recognition -- Reba Thomas.

House Joint Resolution No. 1189 -- Memorials, Interns -- Richard Kurt Hippel.

House Joint Resolution No. 1190 -- Memorials, Public Service -- Donelson Senior Center.

House Joint Resolution No. 1192 -- Memorials, Recognition -- Tennessee Technological University, winner of a Commitment Award from the Tennessee Center for Performance Excellence.

House Joint Resolution No. 1193 -- Memorials, Academic Achievement -- Jordan Osborn, Valedictorian, Creek Wood High School.

House Joint Resolution No. 1194 -- Memorials, Academic Achievement -- Jennifer Chaney, Salutatorian, Creek Wood High School.

House Joint Resolution No. 1195 -- Memorials, Interns -- Lauren Elizabeth Nickas.

House Joint Resolution No. 1196 -- Memorials, Professional Achievement -- Lisa J. Moffitt, NRCC Businessperson of the Year.

House Joint Resolution No. 1199 -- Memorials, Academic Achievement -- Virginia Rae Shaw, Valedictorian, Columbia Central High School.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

House Joint Resolution No. 1200 -- Memorials, Academic Achievement -- Rachel Elliott, Salutatorian, Mount Pleasant High School.

House Joint Resolution No. 1201 -- Memorials, Academic Achievement -- Mary Constance Richardson, Salutatorian, Columbia Central High School.

House Joint Resolution No. 1202 -- Memorials, Academic Achievement -- Lindsey Brown, Co-Salutatorian, Zion Christian Academy.

House Joint Resolution No. 1204 -- Memorials, Academic Achievement -- Cherelle Dabney, Salutatorian, Spring Hill High School.

House Joint Resolution No. 1205 -- Memorials, Professional Achievement -- Janice Keck, Director, Williamson County Public Library System.

House Joint Resolution No. 1206 -- Memorials, Retirement -- Dr. Ronald H. Griffeth.

Senate Joint Resolution No. 1066 -- Memorials, Interns -- Joshua Adam Parker.

Senate Joint Resolution No. 1067 -- Memorials, Heroism -- Corporal Josh Samuels, United States Marine Corps.

Senate Joint Resolution No. 1068 -- Memorials, Academic Achievement -- Lauren Michelle Smalley, Valedictorian, William Blount High School.

Senate Joint Resolution No. 1069 -- Memorials, Academic Achievement -- Nathan J. Mills, Valedictorian, Sevier County High School.

Senate Joint Resolution No. 1070 -- Memorials, Academic Achievement -- Matthew Ryan Willis, Valedictorian, Sevier County High School.

Senate Joint Resolution No. 1071 -- Memorials, Academic Achievement -- Sarah C. Taylor, Salutatorian, William Blount High School.

Senate Joint Resolution No. 1109 -- Memorials, Academic Achievement -- Rebecca Elizabeth Austin, Salutatorian, East Robertson High School.

Senate Joint Resolution No. 1110 -- Memorials, Academic Achievement -- Donald Scott Davis, Salutatorian, South Haven Christian School.

Senate Joint Resolution No. 1111 -- Memorials, Academic Achievement -- Titus Naive, Valedictorian, South Haven Christian School.

Senate Joint Resolution No. 1112 -- Memorials, Academic Achievement -- Miranda Overdorf, Valedictorian, East Robertson High School.

Senate Joint Resolution No. 1113 -- Memorials, Academic Achievement -- Susan Plumlee, Valedictorian, East Robertson High School.

Senate Joint Resolution No. 1114 -- Memorials, Interns -- Katherine "Katie" Cooper.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senate Joint Resolution No. 1115 -- Memorials, Recognition -- ACH Food Companies, Inc.

Senate Joint Resolution No. 1117 -- Memorials, Recognition -- St. Mary's Health System.

Senate Joint Resolution No. 1118 -- Memorials, Recognition -- Harry E. Scanlan.

Senate Joint Resolution No. 1119 -- Memorials, Death -- Katharine Henry.

Senate Joint Resolution No. 1120 -- Memorials, Recognition -- Knight/Jacobs Joint Venture.

Senate Joint Resolution No. 1150 -- Memorials, Public Service -- Kenneth Robert McKnight.

Senate Resolution No. 213 -- Memorials, Interns -- Lauren Howard.

Senator Crowe moved that all Senate Joint Resolutions and Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

CONSENT CALENDAR NO. 2

Objections having been raised, the following bills were placed at the heel of the calendar for Thursday, May 13, 2004, pursuant to Rule 38: **Senate Bills Nos. 3045 and 3289.**

Senate Bill No. 2051 -- Special License Plates -- Authorizes issuance of Tennessee Golf new specialty earmarked license plates; allocates 50 percent of funds derived from sale thereof to Tennessee Golf Foundation to benefit The First Tee youth development initiative and Foundation's Junior Tour and other junior golf programs. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2240 -- Special License Plates -- Authorizes issuance of "MAKUS Buckle Up! Drive Safely!" new specialty earmarked license plates; allocates 50 percent of funds derived from sale thereof to MAKUS (Michael Appleby Keeping Us Safe) Buckle Up Program for teenage drivers. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2246 -- Courts, Administrative Office of the -- Requires administrative office of the courts to create and maintain registry of persons credentialed as court interpreter of spoken foreign languages and to post such registry on its Web site. Amends TCA Title 16.

On motion, Senate Bill No. 2246 was made to conform with **House Bill No. 2338.**

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

On motion, House Bill No. 2338, on same subject, was substituted for Senate Bill No. 2246.

Senate Bill No. 2266 -- Special License Plates -- Authorizes issuance of cultural license plates for Baylor School of Chattanooga. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2279 -- Special License Plates -- Authorizes issuance of new specialty earmarked license plates for The Children's Hospital at Johnson City Medical Center; allocates 50 percent of funds derived from sale of such plates, minus expenses, to Mountain States Health Foundation to develop and expand such hospital. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2285 -- Special License Plates -- Authorizes issuance of new specialty earmarked license plates for Shriners; allocates 50 percent of funds derived from sale of such plates, minus expenses, to Shriners Hospitals for Children to provide free orthopaedic, burn and spinal cord injury care for children. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2373 -- Special License Plates -- Authorizes issuance of cultural license plates for McCallie School in Chattanooga. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2479 -- Sunset Laws -- State university and community college system, board of regents, June 30, 2008. Amends TCA Title 4, Chapter 29 and Title 49, Chapter 8.

Senate Bill No. 2581 -- Special License Plates -- Authorizes issuance of American Cancer Society Relay For Life new specialty earmarked license plates; allocates 50 percent of funds derived from sale thereof to American Cancer Society. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2801 -- Special License Plates -- Effective July 1, 2004, reclassifies International Association of Firefighters cultural plate as new specialty earmarked plate and reallocates 50 percent of funds derived from sale thereof to Tennessee Firefighters Emergency Relief Fund; removes IAFF membership requirement to obtain such plate. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2951 -- Special License Plates -- Authorizes issuance of new specialty earmarked plates to promote organ donation awareness in Tennessee; allocates 50 percent of funds produced from sale thereof, minus expenses, to Tennessee Donor Services and Mid-South Transplant Society for such purpose. Amends TCA Title 55, Chapter 4.

Senate Bill No. 2992 -- Special License Plates -- Authorizes issuance of Tennessee Councils of Boy Scouts of America new specialty earmarked plates; allocates 50 percent of funds derived from sale thereof to six Tennessee Councils of BSA in equal shares. Amends TCA Title 55, Chapter 4.

Senate Bill No. 3112 -- Utilities, Utility Districts -- Authorizes boards of commissioners in utility districts in Grainger and Union counties to approve per diem compensation for up to 12 meetings a year for up to \$250 per meeting; present law, with several exceptions, authorizes up to \$100 for districts having more than 500 users and up to \$50.00 for 500 or fewer users. Amends TCA Title 7, Chapter 82, Part 3.

Senate Bill No. 3170 -- Special License Plates -- Creates new specialty earmarked license plate for Regional Medical Center at Memphis (The MED); allocates 50 percent of funds produced from sale thereof, minus expenses, to such entity. Amends TCA Title 55, Chapter 4.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senate Bill No. 3296 -- Housing -- Authorizes the community development agency of Montgomery County to serve as the housing authority. Amends TCA Title 13, Chapter 20.

On motion, Senate Bill No. 3296 was made to conform with **House Bill No. 3459**.

On motion, House Bill No. 3459, on same subject, was substituted for Senate Bill No. 3296.

Senate Bill No. 3460 -- Tennessee Wildlife Resources Agency -- Authorizes the agency to enter into agreements with the U.S. Coast Guard to enforce federal regulations in connection with homeland security related activities on state waters; the Office of Homeland Security must approve all such agreements.

On motion, Senate Bill No. 3460 was made to conform with **House Bill No. 3535**.

On motion, House Bill No. 3535, on same subject, was substituted for Senate Bill No. 3460.

Senate Joint Resolution No. 975 -- Naming and Designating -- "Morris H. Fair Memorial Bridge", Walnut Grove Road spanning I-240 in Shelby County.

Senate Joint Resolution No. 996 -- Memorials, Government Officials -- Directs Tennessee Education Lottery Corporation to implement plan for Tennessee Lottery to participate in AMBER ALERT network via on-line lottery ticket terminals and other appropriate media and technology.

Senator Crowe moved that all Senate Joint Resolutions be adopted; and all Senate Bills and House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Beavers, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

LOCAL BILL
CONSENT CALENDAR

Senate Bill No. 3505 -- Decatur County -- Subject to local approval, establishes \$30.00 wheel tax.

On motion, Senate Bill No. 3505 was made to conform with **House Bill No. 3590**.

On motion, House Bill No. 3590, on same subject, was substituted for Senate Bill No. 3505.

Senate Bill No. 3506 -- Shelby County -- Subject to local approval, exempts persons directly involved with a film or video production that has received assistance from the Memphis and Shelby County Film and Television Commission from the privilege tax upon hotel occupancy in Shelby County, provided that the same have maintained occupancy for 30 continuous days. Amends Chapter 131 of the Private Acts of 1969; as amended.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senator Crowe moved that all Senate Bills and House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 26
Noes 0

Senators voting aye were: Atchley, Beavers, Burchett, Clabough, Cohen, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--26.

A motion to reconsider was tabled.

CALENDAR

Senate Joint Resolution No. 800 -- Constitutional Amendments -- Proposes an amendment to Article VI, Section 14, of the Constitution of the State of Tennessee, to raise the amount of the maximum fine that may be assessed without a jury.

Senator Haynes moved that the Clerk read the resolution, which motion prevailed.

The Clerk read the resolution.

Thereupon, Mr. Speaker Wilder declared pursuant to Article XI, Section 3, **Senate Joint Resolution No. 800** had been read.

Senator Miller moved that **Senate Joint Resolution No. 887** be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 69 -- Sewage -- Requires installation of approved effluent filter for each new subsurface sewage disposal system that utilizes pump for distribution delivery of effluent to disposal system. Amends TCA Title 68, Chapter 221, Part 4.

On motion, Senate Bill No. 69 was made to conform with **House Bill No. 39**.

On motion, House Bill No. 39, on same subject, was substituted for Senate Bill No. 69.

On motion of Senator Miller, Amendment No. 1 was withdrawn.

On motion of Senator Miller, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 39** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Mr. Speaker Wilder moved that **Senate Bill No. 126** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 1083 -- Handgun Permits -- Allows persons convicted of misdemeanors and placed on probation in excess of one year and persons not under felony indictment or information for certain criminal offenses punishable by confinement in prison to obtain handgun carry permit. Amends TCA Section 39-17-1351.

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-1351, is amended by deleting subsections (c)(6) and (c)(7) in their entirety and substituting instead the following:

(6) That the applicant has not been convicted of a criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices; or

(7) That the applicant is not currently under indictment or information for any criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1083**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 1566 -- Game and Fish Laws -- Increases penalty from Class C to Class A misdemeanor for second and subsequent violation of hunting without permission on lands posted for "hunting by written permission only"; requires revocation of hunting and fishing license for such violations. Amends TCA Section 70-4-106.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

On motion, Senate Bill No. 1566 was made to conform with **House Bill No. 1047**.

On motion, House Bill No. 1047, on same subject, was substituted for Senate Bill No. 1566.

Senator Miller moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all the language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 70-4-106(b)(1)(B), is amended by deleting subdivision (ii) and by substituting instead the following:

(ii) The signs must be visible at all major points of ingress and must be accompanied by fluorescent visual markings which markings must also be placed at fifty-yard (50 yd) intervals around the perimeter of the lands being posted. Such fluorescent visual markings must be at least one inch (1") wide and four inches (4") long. The division of forestry, in cooperation with the Department of Agriculture and the Wildlife Resources Agency, shall determine a unique universal paint color or colors, including the color blue, to be used for these property boundary markings.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Miller moved that **House Bill No. 1047**, as amended, be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 2060 -- Highway Signs -- "Roscoe Pickering Memorial Bridge", SR 238 in Montgomery County.

On motion, Senate Bill No. 2060 was made to conform with **House Bill No. 2141**.

On motion, House Bill No. 2141, on same subject, was substituted for Senate Bill No. 2060.

On motion of Senator Williams, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2141** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senator Miller moved that **Senate Joint Resolution No. 887** be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 2077 -- Taxes, Ad Valorem -- Exempts property used as thrift shops by Section 501(c)(3) institutions from ad valorem taxation. Amends TCA Title 67, Chapter 5, Part 2.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by substituting the words "religious or charitable" for the words "religious, charitable, scientific, or nonprofit educational" and by substituting the word "primarily" for the words "in whole or part" in the amendatory language of Section 1, and by adding the following new section after Section 1 and redesignating existing sections accordingly:

SECTION ____, Tennessee Code Annotated, Section 67-5-212, is further amended by adding the following new subdivision:

() Land not necessary to support exempt structures or site improvements associated with exempt structures, including land used for recreation, retreats or sanctuaries, shall not be eligible for exemption beyond a maximum of one hundred (100) acres per county for each religious, charitable, scientific or nonprofit educational institution qualified for exemption pursuant to this section. For purposes of applying this limit, land owned by an exempt institution shall be aggregated with land owned by related exempt institutions having common ownership or control. Land in excess of the limit may be designated by the county for open space classification pursuant to Section 67-5-1007 as an alternative to exemption.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2077**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 2273 -- State Inmates -- Requires the Department of Correction to provide an orientation to inmates before release concerning relevant services for life after release or parole. Amends TCA Title 40.

On motion, Senate Bill No. 2273 was made to conform with **House Bill No. 2260**.

On motion, House Bill No. 2260, on same subject, was substituted for Senate Bill No. 2273.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

On motion of Senator Cohen, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2260** passed its third and final consideration by the following vote:

Ayes 31

Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MOTION

Senator Cooper moved that **Senate Bill No. 3430** be considered next, out of order, which motion prevailed.

Senate Bill No. 3430 -- Driver Licenses -- Prohibits the issuance of driver licenses to anyone who is not legally in the U.S. and creates a 'certificate for driving' for those in the U.S. who cannot establish their legal status.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-50-102, is amended by adding the following new subsections (18) and (29) and by renumbering the remaining subsections accordingly:

(18) "Certificate for driving" means a certificate issued by the department to an individual who does not satisfy the requirements of § 55-50-321(c)(1)(C). Such certificate for driving shall be clearly distinguishable from a driver license and shall clearly display on its face a phrase substantially similar to

"FOR DRIVING PURPOSES ONLY – NOT VALID FOR IDENTIFICATION".

(29) "Lawful permanent resident" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

SECTION 2. Tennessee Code Annotated, Section 55-50-303(a), is amended by adding the following subdivision:

(9) To any person who is not a United States citizen or lawful permanent resident of the United States.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 3. Tennessee Code Annotated, Section 55-50-321(c)(1), is amended by adding the following subdivision:

(C) Any applicant applying for a driver license, instruction permit, intermediate driver license or photo identification license, upon initial issuance, renewal or reinstatement, shall provide either an original or certified copy of one of the following:

(i) Documentation that the applicant is a citizen of the United States; or

(ii) Documentation issued by the United States government establishing that the applicant is a lawful permanent resident.

SECTION 4. Tennessee Code Annotated, Section 55-50-322(a)(1)(A), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The department shall examine every applicant for a driver license, intermediate driver license, learner permit, or certificate for driving, except as otherwise provided in this part.

SECTION 5. Tennessee Code Annotated, Section 55-50-323, is amended by adding the following language as a new, appropriately designated subsection:

() The fee charged for a certificate for driving issued pursuant to § 55-50-331(g) or § 55-50-331(h) shall be the same as the fee charged for a five year Class D license.

SECTION 6. Tennessee Code Annotated, Section 55-50-331, is amended by adding the following new subsections:

(g) Notwithstanding any other provision of law to the contrary, the department may issue a certificate for driving to persons whose presence in the United States has been authorized by the federal government for specific purpose and for specified period of authorized stay. Such certificate of driving shall be valid only during the period of the time of the applicant's authorized stay in the United States, provided that no certificate shall be issued for a period of less than one (1) year or longer than five (5) years.

(h) Notwithstanding any other provision of law to the contrary, the department may issue a certificate for driving to persons who do not satisfy the requirement of § 55-50-331(g) or the requirements of § 55-50-321(c)(1)(C). Such certificate for driving shall be valid for a period of one (1) year. Persons making an application for such certificate for driving shall comply with all other laws relative to the issuance of driver licenses and financial responsibility.

SECTION 7. Tennessee Code Annotated, Section 55-50-332, is amended by adding the following subsection:

(c) Duplicate certificates for driving obtained in place of such certificates for driving, issued pursuant to § 55-50-331(g) or § 55-50-331(h) shall be valid during the period of time specified in such subsections.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 8. Tennessee Code Annotated, Section 55-50-337, is amended by adding the following subsections:

(c) Notwithstanding any other provisions of law to the contrary, certificates for driving issued pursuant to § 55-50-331(g) or § 55-50-331 (h) shall be valid during the period of time specified in such subsections.

(d) Any person issued a license or permit prior to the effective date of this act, who is subject to the provisions of § 55-50-331(g) or § 55-50-331(h) shall, upon renewal or reapplication, receive, if otherwise eligible, a certificate for driving which shall expire in accordance with such subsections.

SECTION 9. For rulemaking purposes, this act shall be effective upon becoming law, the public welfare requiring it. For all other purposes, Section 2 and Section 3 of this act shall be effective upon becoming law, and Section 1 and 4 through 8 shall become effective July 1, 2004, the public welfare requiring it.

MOTION

Senator Ketron moved that Rule 9 be suspended for the purpose of allowing General Jerry Humble from the Office of Homeland Security to testify, which motion prevailed.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Haynes as Speaker pro tempore.

CALENDAR

FURTHER ACTION ON SENATE BILL NO. 3430

On motion, Amendment No. 1 was adopted.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting Section 3, as amended, in its entirety and by substituting instead the following language:

SECTION 3. Tennessee Code Annotated, Section 55-50-321(c)(1), is amended by adding the following new subdivisions:

(C) Any applicant applying for a driver license, instruction permit, intermediate driver license or photo identification license, upon initial issuance or reinstatement, shall provide either an original or certified copy of one of the following:

- (i) Documentation that the applicant is a citizen of the United States; or
- (ii) Documentation issued by the United States government establishing that the applicant is a lawful permanent resident.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

(D) Any applicant who has received an initial issuance of a driver license since January 1, 2001, shall provide documentation as required in subdivisions (C)(i) or (C)(ii) upon the first renewal date of such license.

AND FURTHER AMEND by deleting the language "§ 55-50-321(c)(1)(C)" from the amendatory language of the first amendatory section of Section 1, as amended, and by substituting instead the language "§ 55-50-321(c)(1)(C)(i) or (ii)".

AND FURTHER AMEND in Section 6 by deleting subsection (h) in its entirety and by substituting instead the following:

(h) Notwithstanding any other provision of law to the contrary, the department may issue a certificate for driving to persons who do not satisfy the requirement of § 55-50-331(g) or the requirements of § 55-50-321(c)(1)(C). Such certificate for driving shall be valid for a period of one (1) year. Except as otherwise provided in this act, all laws applicable to driver licenses and financial responsibility shall also apply to certificates for driving. All laws applicable to convictions, suspensions, cancellations, and revocations of driver licenses shall also apply to certificates for driving.

(i) Any applicant applying for a certificate for driving, upon initial issuance, renewal or reinstatement, shall meet the requirements of this subsection.

AND FURTHER AMEND by deleting the effective date clause in its entirety and by substituting instead the following:

SECTION 9. The department is authorized to promulgate public necessity rules to implement the provisions of this act by July 1, 2004. For all other purposes, Sections 2 and 3 of this act shall be effective upon becoming a law, the public welfare requiring it. Section 1 and Sections 4 through 8 of this act shall become effective July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

MR. SPEAKER WILDER RESUMES CHAIR

Mr. Speaker Wilder resumed the Chair.

Senator Bryson moved to amend as follows:

AMENDMENT NO. 3

AMEND by inserting the following language as an appropriately designated section to precede the final section of the bill as amended:

SECTION ____ Tennessee Code Annotated, Section 55-50-322, is amended by adding the following language as a new, appropriately designated subsection:

(__) An application for initial issuance, renewal or reinstatement for a certificate of driving issued pursuant to § 55-50-331(g) or (h) must be made at a Department of Safety testing station that is separate from the stations or locations that issue driver licenses.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senator Kurita moved that Amendment No. 3 go to the table, which motion prevailed by the following vote:

Ayes 22
Noes 7
Present, not voting . . . 1

Senators voting aye were: Atchley, Beavers, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller and Williams--22.

Senators voting no were: Bryson, Crowe, Fowler, Person, Ramsey, Southerland and Trail--7.

Senator present and not voting was: Norris--1.

Senator Jackson moved to amend as follows:

AMENDMENT NO. 4

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Senator Ketron moved that **Senate Bill No. 3430**, as amended, be moved five places down on the calendar for today, which motion prevailed.

Mr. Speaker Wilder moved that **Senate Bill No. 2291** be placed at the heel of the calendar for today, which motion prevailed.

FURTHER ACTION ON HOUSE BILL NO. 1047, AS AMENDED

Thereupon, **House Bill No. 1047**, as amended, passed its third and final consideration by the following vote:

Ayes 28
Noes 0
Present, not voting . . . 2

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--28.

Senators present and not voting were: Beavers and Herron--2.

A motion to reconsider was tabled.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senate Bill No. 2318 -- Fees -- Requires clerks to charge \$2.00 fee for data entry for each party in a case; requires judicial council to appoint committee to study and make recommendations on court costs to general assembly by January 17, 2005. Amends TCA Section 8-21-401 and Section 16-21-107.

On motion, Senate Bill No. 2318 was made to conform with **House Bill No. 2353**.

On motion, House Bill No. 2353, on same subject, was substituted for Senate Bill No. 2318.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2353** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MOTION

Senator Miller moved that **Senate Joint Resolution No. 887** be referred to the Committee on Calendar, which motion prevailed.

MOTION

Senator Miller moved that Rules 37 and 84 be suspended for the immediate consideration of **House Joint Resolution No. 990**, which motion prevailed by the following vote:

Ayes 29
Noes 1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

Senator voting no was: Cohen--1.

House Joint Resolution No. 990 -- Constitutional Amendments -- Proposes an amendment to Article XI of the Constitution of the State of Tennessee to define marriage as a contract between one man and one woman.

Senator Miller moved that the Clerk read the resolution, which motion prevailed.

The Clerk read the resolution.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Thereupon, Mr. Speaker Wilder declared pursuant to Article XI, Section 3, **House Joint Resolution No. 990** had been read.

CALENDAR

Senate Bill No. 2364 -- Aged Persons -- Enacts "Elder Tennesseans Protection Act of 2004". Amends TCA Title 3; Title 4; Title 29; Title 39; Title 40; Title 63; Title 68 and Title 71.

On motion, Senate Bill No. 2364 was made to conform with **House Bill No. 2343**.

On motion, House Bill No. 2343, on same subject, was substituted for Senate Bill No. 2364.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Senator Person moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the language "new subsection (e)" in the directory language of Section 2 and by substituting instead the language "new subsection (f)".

AND FURTHER AMEND by deleting the language "(e)" at the beginning of the amendatory language of Section 2 and by substituting instead the language "(f)".

On motion, Amendment No. 2 was adopted.

Senator Person moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting Section 5 in its entirety and by substituting instead the following:

SECTION 5. Tennessee Code Annotated, Section 71-6-120, is amended by adding the following as a new, appropriately designated subsection:

A financial institution, officer, director, or employee thereof, shall not be liable in any civil action brought by or on behalf of a disabled adult or elderly person for recovery of damages under this chapter, unless prior to such civil action, the financial institution, officer, director, or employee thereof, shall have been convicted of a violation of Tennessee Code Annotated, Section 71-6-117. Provided, however, this provision shall not apply to theft or conversion by an employee, officer or director of a financial institution or liability arising under other provisions of law.

On motion, Amendment No. 3 was adopted.

Senator Person moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting the language "or omission" from subdivision (a)(2) of the amendatory language of Section 10 of the bill as amended.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

On motion, Amendment No. 4 was adopted.

Thereupon, **House Bill No. 2343**, as amended, passed its third and final consideration by the following vote:

Ayes 29

Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senator Ketron moved that **Senate Bill No. 3430**, as amended, be moved one place down on the calendar for today, which motion prevailed.

Senate Bill No. 2419 -- Taxes, Excise -- Provides for taxation of unauthorized substances. Amends TCA Title 67, Chapter 4.

Senator Henry moved that Amendment No. 1 be placed behind Amendment No. 2, which motion prevailed.

Senator McNally moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding a new part composed of Sections 2 through 13 of this act.

SECTION 2. The purpose of this act is to levy an excise tax to generate revenue for state and local law enforcement agencies for use by those agencies to investigate, combat, prevent and reduce drug crimes, and for the general fund. Nothing in this act may in any manner provide immunity from criminal prosecution for a person who possesses an illegal substance.

SECTION 3. As used in this act, unless the context clearly requires otherwise:

(1) "Commissioner" means the Commissioner of Revenue;

(2) "Controlled substance" means a controlled substance as defined in Section 39-17-402, and not included in "low-street-value drugs".

(3) "Dealer" means any of the following:

(A) A person who actually or constructively possesses more than forty-two and one-half (42.5) grams of marijuana, seven (7) or more grams of any

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

other unauthorized substance that is sold by weight, or ten (10) or more dosage units of any other unauthorized substance that is not sold by weight.

(B) A person who in violation of Title 57, Chapter 3, Part 2, possesses an illicit alcoholic beverage for sale.

(4) "Illicit alcoholic beverage" means an alcoholic beverage, as defined in Section 57-3-101, not authorized by the Tennessee alcoholic beverage commission. "Illicit alcoholic beverage" includes, but is not limited to, the products known as "bootleg liquor", "moonshine", "non-tax-paid liquor", and "white liquor".

(5) "Local law enforcement agency" means a municipal police department, a metropolitan police department, or a sheriff's office.

(6) "Low-street-value drug" means any of the following controlled substances:

(A) An anabolic steroid as defined in Section 39-17-410(f).

(B) A depressant described in Section 39-17-412(c).

(C) A hallucinogenic substance described in Section 39-17-406(d).

(D) A stimulant described in Section 39-17-412(e).

(E) A controlled substance described in Section 39-17-414.

(7) "Marijuana" means all parts of the plant of the genus *Cannabis*, whether growing or not; the seeds of this plant; the resin extracted from any part of this plant; and every compound, salt, derivative, mixture, or preparation of this plant, its seeds, or its resin.

(8) "Person" means "person", as defined in Section 39-17-402.

(9) "State law enforcement agency" means any state agency, force, department, or unit responsible for enforcing criminal laws.

(10) "Unauthorized substance" means a controlled substance, a low-street-value drug or an illicit alcoholic beverage.

SECTION 4. (a) An excise tax is levied on unauthorized substances possessed, either actually or constructively, by dealers at the following rates:

(1) At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested marijuana stems and stalks that have been separated from and are not mixed with any other parts of the marijuana plant.

(2) At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction thereof, of marijuana, other than separated stems and stalks taxed under subdivision (1) of this section.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

(3) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of cocaine.

(4) At the rate of two hundred dollars (\$200.00) for each gram, or fraction thereof, of any other controlled substance or low-street-value drug that is sold by weight.

(5) At the rate of fifty dollars (\$50.00) for each ten (10) dosage units, or fraction thereof, of any low-street-value drug that is not sold by weight.

(6) At the rate of two hundred dollars (\$200.00) for each ten (10) dosage units, or fraction thereof, of any other controlled substance that is not sold by weight.

(b) A quantity of marijuana or other unauthorized substance is measured by the weight of the substance whether pure or impure or dilute, or by the number of dosage units in the dealer's possession when the substance is not sold by weight, in the dealer's possession. A quantity of an unauthorized substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.

(c) An excise tax is levied on illicit alcoholic beverages possessed by a dealer at the following rates:

(1) At the rate of thirty-one dollars and seventy cents (\$31.70) for each gallon, or fraction thereof, of illicit alcoholic beverages sold by the drink.

(2) At the rate of twelve dollars and eighty cents (\$12.80) for each gallon, or fraction thereof, of illicit alcoholic beverages not sold by the drink.

SECTION 5. (a) The tax levied in this act does not apply to a substance in the possession of a dealer who is authorized by law to possess the substance. This exemption applies only during the time the dealer's possession of the substance is authorized by law.

(b) The tax levied in this act does not apply to the following marijuana:

(1) Harvested mature marijuana stalks when separated from and not mixed with any parts of the marijuana plant;

(2) Fiber or any other product of marijuana stalks described in subdivision (1) of this subsection, except resin extracted from the stalks;

(3) Marijuana seeds that have been sterilized and are incapable of germination;

(4) Roots of the marijuana plant.

SECTION 6. (a) The commissioner shall issue stamps to affix to unauthorized substances to indicate payment of the tax required by this act. Dealers shall report the taxes payable under this act at the time and on the form prescribed by the

commissioner. Dealers are not required to give their name, address, social security number, or other identifying information on the form. Upon payment of the tax, the commissioner shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person.

(b) Every local law enforcement agency and every state law enforcement agency must report to the Department of Revenue within forty-eight (48) hours after seizing an unauthorized substance, or making an arrest of an individual in possession of an unauthorized substance, listed in this subsection upon which a stamp has not been affixed. The report must be in the manner prescribed by the commissioner and must include the time and place of the arrest or seizure, the amount, location, and kind of substance, the identification of any individual in possession of the substance and such individual's social security number, and any other information prescribed by the commissioner. The report must be made when the arrest or seizure involves any of the following unauthorized substances upon which a stamp has not been affixed as required by this act:

- (1) More than forty-two and one-half (42.5) grams of marijuana.
- (2) Any illicit alcoholic beverage.
- (3) Seven (7) or more grams of any other unauthorized substance that is sold by weight.
- (4) Ten (10) or more dosage units of any other unauthorized substance that is not sold by weight.

SECTION 7. The tax imposed by this act is payable by any dealer who actually or constructively possesses an unauthorized substance in this state upon which the tax has not been paid, as evidenced by a stamp issued by the commissioner. The tax is payable within forty-eight (48) hours after the dealer acquires actual or constructive possession of a non-tax-paid unauthorized substance, exclusive of Saturdays, Sundays, and legal holidays of this state, in which case the tax is payable on the next working day. If the tax is not paid within forty-eight (48) hours, the tax will become delinquent and shall accrue penalty and interest pursuant to the provisions of Title 67, Chapter 1, Part 8. Upon payment of the tax, the dealer shall permanently affix the appropriate stamps to the unauthorized substance. Once the tax due on an unauthorized substance has been paid, no additional tax is due under this act even though the unauthorized substance may be handled by other dealers. If a dealer is found in possession of a substance taxable under this part that does not have the appropriate tax stamp affixed, it shall be presumed the dealer has been in possession of such substance for longer than forty-eight (48) hours, exclusive of Saturdays, Sundays, and legal holidays of this state.

SECTION 8. Notwithstanding any other provision of law, an assessment against a dealer who possesses an unauthorized substance to which a stamp has not been affixed as required by this act shall be made as provided in this section. The commissioner shall immediately assess tax, applicable penalty, and interest based on any information brought to the attention of the commissioner, or the commissioner's duly authorized assistants, that a person is liable for unpaid tax pursuant to this part. The tax shall be assessed in the same manner as any other tax assessment, except when the provisions of this act specify

otherwise. The commissioner shall notify the dealer in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice of assessment and demand for payment shall be either mailed to the dealer at the dealer's last known address or served on the dealer in person. If the dealer does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the commissioner shall collect the assessment, including penalty and interest, pursuant to the procedure set forth in Title 67, Chapter 1, Part 14, unless the dealer files with the commissioner sufficient security in the amount of the assessment, including penalty and interest. Unless security is provided, the assessment shall be deemed a jeopardy assessment, and the commissioner shall use all means available to collect the assessment from any property in which the dealer has a legal, equitable, or beneficial interest. The dealer may seek review of the assessment as provided in Title 67, Chapter 1, Part 18, except to the extent those provisions are modified by this act. The provisions of Section 67-6-1802 are applicable to the tax levied by this act, except that a claim for refund shall be filed within six (6) months of the date of payment of the tax. For purposes of this section, "sufficient security" shall mean one of the forms of security listed in Section 67-1-1801(c)(1)(A) through (C).

SECTION 9. Notwithstanding any other provision of law, information obtained pursuant to this act is confidential and, unless independently obtained, may not be used in a criminal prosecution other than a prosecution for a violation of this act. Stamps issued pursuant to this act may not be used in a criminal prosecution other than a prosecution for a violation of this act. The provisions of Title 67, Chapter 1, Part 17, including the criminal penalties specified therein, shall apply to the tax levied under this act. This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of dealers or the contents of particular returns or reports.

SECTION 10. (a) The commissioner shall credit the proceeds of the tax levied by this act to a special nonreverting account, to be called the "State Unauthorized Substances Tax Account", until the tax proceeds are unencumbered. The commissioner shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis.

(b) Tax proceeds are unencumbered when:

(1) the tax has been paid and the collection process completed; and

(2)(A) the taxpayer has no current right to file a refund claim, and the paid tax is not the subject of any pending lawsuit for the recovery of that tax; or

(B) the time for the taxpayer to file suit pursuant to Section 67-1-1802(c) has expired.

(C) The commissioner shall first apply the unencumbered tax proceeds to the costs of storing and disposing of the assets seized in payment of the assessment under this act, which costs shall be added to and become part of the assessment. From the remaining proceeds, the commissioner shall remit seventy-five percent (75%) of the unencumbered tax proceeds that were collected by assessment to the state or local law enforcement agency that conducted the investigation of a dealer that led to the assessment. Such proceeds are to be used

by the agency solely for the purpose of investigating, combating, preventing, and reducing drug crimes. If more than one (1) state or local law enforcement agency conducted the investigation, the commissioner shall determine the equitable share for each agency based on the contribution each agency made to the investigation. The commissioner's determination of the equitable share for each agency shall be final, and shall not be subject to review in an administrative or judicial proceeding. The commissioner shall credit the remaining unencumbered tax proceeds to the general fund.

SECTION 11. The provisions of this act shall not be construed to confer any immunity from criminal prosecution or conviction for a violation of Title 39, Chapter 17, Part 4, upon any person who voluntarily pays the tax imposed by this part or who otherwise complies with the provisions of this part.

SECTION 12. The commissioner shall have the authority to promulgate rules in accordance with Title 4, Chapter 5, to implement, administer and enforce the provisions of this act.

SECTION 13. This act shall take effect January 1, 2005, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Thereupon, **Senate Bill No. 2419**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

FURTHER ACTION ON SENATE BILL NO. 3430, AS AMENDED

On motion of Senator Jackson, Amendment No. 4 was withdrawn.

Thereupon, **Senate Bill No. 3430**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson,

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 2423 -- Hospitals and Health Care Facilities -- Expands membership of the health services development agency by adding one representative of the home care industry to the agency on and after July 1, 2004. Amends TCA Section 68-11-1604(b).

Senator Jackson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-11-1604(b), is amended in subdivision (1) by deleting the language "nine (9)" and substituting instead the language "ten (10)".

SECTION 2. Tennessee Code Annotated, Section 68-11-1604(b)(1)(F), is amended by deleting the language "Four (4)" and substituting instead the language "Five (5)"; by deleting the word "and" at the end of subitem (F)(iii); by deleting the period at the end of subitem (F)(iv) and instead substituting a semicolon and the word "and," and by adding the following language as a new subitem to be designated as follows:

(v) One (1) representative of the home care industry from a list of one (1) nominee submitted by the Tennessee Association for Home Care.

SECTION 3. The initial term for the home care representative shall be three (3) years.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Jackson moved to amend as follows:

AMENDMENT NO. 2

AMEND by inserting the following language as a new Section 4, and by designating the current Section 4 of the printed bill as Section 5:

SECTION 4. Reimbursement of travel expenses and per diem for the member of the agency added by this act shall be paid from the funds of the agency and not from the general fund.

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 2423**, as amended, passed its third and final consideration by the following vote:

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 2452 -- Water -- Establishes the Tennessee Water Resource Development Agency, and a revolving fund for rural water supply. Amends TCA Title 68, Chapter 221.

On motion, Senate Bill No. 2452 was made to conform with **House Bill No. 2327**.

On motion, House Bill No. 2327, on same subject, was substituted for Senate Bill No. 2452.

On motion of Senator Miller, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2327** passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail and Williams--30.

A motion to reconsider was tabled.

Senator Person moved that **Senate Bill No. 2602** be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senate Bill No. 2630 -- Taxes, Gasoline, Petroleum Products -- Extends omitted claim refund on sales to governmental agencies from one year to three years. Amends TCA Section 67-3-413.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the following language from the original Section 2:

, and shall apply to omnibus claims filed on or after January 1, 2002; provided that the provisions of §67-1-801(b) shall not apply to any claims revived pursuant to the provisions of this act

On motion, Amendment No. 1 was adopted.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Thereupon, **Senate Bill No. 2630**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 2693 -- Criminal Procedure -- Allows non-violent felony offenders automatic restoration of voting rights upon pardon, completion of sentence or being granted final release from incarceration or supervision. Amends TCA Title 40, Chapter 29, Part 1.

On motion, Senate Bill No. 2693 was made to conform with **House Bill No. 2653**.

On motion, House Bill No. 2653, on same subject, was substituted for Senate Bill No. 2693.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2653** passed its third and final consideration by the following vote:

Ayes 30
Noes 1

Senators voting aye were: Atchley, Beavers, Bryson, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

Senator voting no was: Burchett--1.

A motion to reconsider was tabled.

Senator Cooper moved that **Senate Bill No. 2785** be placed on the calendar for Monday, May 17, 2004, which motion prevailed.

Senate Bill No. 2866 -- Education, Higher -- Promotes financial accountability in higher education administration. Amends TCA Title 49, Chapter 7.

On motion, Senate Bill No. 2866 was made to conform with **House Bill No. 3338**.

On motion, House Bill No. 3338, on same subject, was substituted for Senate Bill No. 2866.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

On motion of Senator McNally, Amendment No. 2 was withdrawn.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Thereupon, **House Bill No. 3338** passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Graves as Speaker pro tempore.

Senate Bill No. 2966 -- Child Custody and Support -- Enacts Protective Parent Reform Act, which addresses custody of abused children. Amends TCA Section 36-6-111.

On motion, Senate Bill No. 2966 was made to conform with **House Bill No. 2848**.

On motion, House Bill No. 2848, on same subject, was substituted for Senate Bill No. 2966.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2848** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

Senator Burks moved that **Senate Bill No. 2979** be placed on the final calendar, which motion prevailed.

Senate Bill No. 3073 -- Education, Higher -- Revises provisions on campus police. Amends TCA Section 49-7-118.

On motion, Senate Bill No. 3073 was made to conform with **House Bill No. 3242**.

On motion, House Bill No. 3242, on same subject, was substituted for Senate Bill No. 3073.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND in Section 7 of the printed bill by deleting the section and substituting the following:

SECTION 7. Tennessee Code Annotated, Section 49-7-118(e)(1), is further amended in the second sentence by deleting the words "either the security officers or law enforcement officers find" and substituting the words "the law enforcement agency finds".

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 3242**, as amended, passed its third and final consideration by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senator Miller moved that **Senate Bill No. 3225** be placed on the final calendar, which motion prevailed.

Senate Bill No. 3274 -- Highway Signs -- Designates several segments of highway in Tennessee as the "Purple Heart Trail".

On motion, Senate Bill No. 3274 was made to conform with **House Bill No. 3249**.

On motion, House Bill No. 3249, on same subject, was substituted for Senate Bill No. 3274.

Senator Williams moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting in its entirety Item 6 in Section 1 of the introduced bill and by substituting instead the following language:

6. That portion of U.S. Highway 51 from its intersection with U.S. Highway 70 in Memphis north to its intersection with U.S. Highway 412 in Dyersburg (including the U.S. Highway 51 Bypass route, but excluding the more direct segment of such route that runs concurrently with State Route 211 through downtown Dyersburg as South Main Avenue, Troy Avenue, Gordon Street, North Sampson Avenue and Saint John Avenue);

On motion, Amendment No. 1 was adopted.

On motion of Senator Henry, Amendment No. 2 was withdrawn.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Thereupon, **House Bill No. 3249**, as amended, passed its third and final consideration by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 3317 -- Guardianship -- Permits judge to waive guardian ad litem's written report before hearing to appoint fiduciary; allows fiduciary to revoke or amend durable power of attorney for health care executed by principal prior to fiduciary's appointment; specifies when powers removed from respondent and given to conservator that respondent retains only rights specifically enumerated. Amends TCA Title 34, Chapter 1, Part 1; Title 34, Chapter 3, Part 1 and Title 34, Chapter 6, Part 2.

On motion, Senate Bill No. 3317 was made to conform with **House Bill No. 3404**.

On motion, House Bill No. 3404, on same subject, was substituted for Senate Bill No. 3317.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3404** passed its third and final consideration by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 3380 -- Education, Higher -- Requires that person seeking baccalaureate degree earn credit in American history consisting of nine semester hours or 12 quarter hours instead of six semester hours or nine quarter hours. Amends TCA Title 49, Chapter 7; Title 49, Chapter 8; and Title 49, Chapter 9.

On motion, Senate Bill No. 3380 was made to conform with **House Bill No. 3524**.

On motion, House Bill No. 3524, on same subject, was substituted for Senate Bill No. 3380.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Senator Fowler moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the language "in accordance with this section" in the amendatory language of subsection (a) at the end of the second sentence between the word "university" and the period, in the amendatory language of subsection (b) after the word "university", and in the amendatory language of subsection (c) in the first sentence after the word "university".

Pursuant to Rule 39(3), Amendment No. 2 was adopted by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

Senator Cooper moved that **House Bill No. 3524**, as amended, be moved three places down on the calendar for today, which motion prevailed.

Senate Bill No. 3409 -- Solid Waste Disposal -- Requires revision of regional solid waste management plans every 10 years and revises requirements for certain funds and tipping fees. Amends TCA Title 68, Chapter 212, Part 1 and Title 68, Chapter 211, Part 1 and Part 8.

On motion, Senate Bill No. 3409 was made to conform with **House Bill No. 3499**.

On motion, House Bill No. 3499, on same subject, was substituted for Senate Bill No. 3409.

On motion of Senator Miller, Amendment No. 1 was withdrawn.

MR. SPEAKER WILDER RESUMES CHAIR

Mr. Speaker Wilder resumed the Chair.

Senator Harper moved that **House Bill No. 3499** be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senate Bill No. 3412 -- Parks, Natural Areas Preservation -- Allows Commissioner of Environment and Conservation to purchase services for state park operations without approval of any other state agency. Amends TCA Section 11-3-112.

On motion, Senate Bill No. 3412 was made to conform with **House Bill No. 3495**.

On motion, House Bill No. 3495, on same subject, was substituted for Senate Bill No. 3412.

On motion of Senator Miller, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3495** passed its third and final consideration by the following vote:

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Graves, Harper, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senator Clabough moved that **Senate Bill No. 3419** be moved five places down on the calendar for today, which motion prevailed.

FURTHER ACTION ON HOUSE BILL NO. 3524, AS AMENDED

Senator Cooper moved that **House Bill No. 3524**, as amended, be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senator Clabough moved that **Senate Bill No. 3454** be moved five places down on the calendar for today, which motion prevailed.

House Bill No. 1249 -- Ethics -- Requires disclosure of consulting contracts by members of general assembly. Amends TCA Title 2, Chapter 10; Title 3 and Title 12, as amended.

Senator Fowler moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting the language "in a contested case action or rule making procedure" from the last sentence of Items 1 and 2 in Section 2-10-122 in Section 1.

On motion, Amendment No. 3 failed.

Senator Trail moved that **House Bill No. 1249**, as amended, be moved three places down on the calendar for today, which motion prevailed.

House Bill No. 2553 -- Taxes, Sales -- Provides for distribution to Campbell County of certain sales taxes collected in a portion of that county. Amends TCA Title 67, Chapter 6.

On motion of Senator Kilby, Amendment No. 2 was withdrawn.

Senator Kilby moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting in its entirety Section 1 of the printed bill and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new subsection thereto:

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

() Notwithstanding the allocations provided for in subsection (a), there shall be apportioned and distributed to any county in which there is located property owned by Tennessee Valley Authority over which an easement has been given to the State of Tennessee and the State of Tennessee has leased or otherwise conveyed its rights to the property to such county for development, the amount of sales taxes to indebtedness incurred by such county to the same extent that such county may pledge any revenues of the county.

On motion, Amendment No. 3 was adopted.

Thereupon, **House Bill No. 2553**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Kyle moved that **House Bill No. 3544** be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senator Crowe moved that **Senate Bill No. 1152** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 2090 -- Education, Higher -- Prohibits employment by boards or institutions of higher education for twelve months of non-employee members of presidential search committees. Amends TCA Title 49, Chapter 7; Title 49, Chapter 8 and Title 49, Chapter 9.

On motion, Senate Bill No. 2090 was made to conform with **House Bill No. 2225**.

On motion, House Bill No. 2225, on same subject, was substituted for Senate Bill No. 2090.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2225** passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

FURTHER ACTION ON HOUSE BILL NO. 1249, AS AMENDED

Senator Trail moved that **House Bill No. 1249**, as amended, be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senator Clabough moved that **Senate Bill No. 3419** be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 3454 -- Revenue, Dept. of -- Authorizes commissioner to accept credit and debit cards for payment of taxes under certain circumstances.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-102(13), is amended by adding the following language after the present language:

If the shipment includes exempt property and taxable property, the seller should allocate the delivery charge by using:

(A) a percentage based on the total sales price of the taxable property compared to the sales prices of all property in the shipment; or

(B) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment.

The seller must tax the percentage of the delivery charge allocated to the taxable property but does not have to tax the percentage allocated to the exempt property.

SECTION 2. Tennessee Code Annotated, Section 67-6-102(43), is amended by deleting all of present subdivision (B) and substituting instead the following:

(B) "Prosthetic device" does not include

(i) Corrective eyeglasses; or

(ii) Contact lenses.

SECTION 3. Tennessee Code Annotated, Section 67-6-102(48)(A), is amended by deleting subdivision (vii) in its entirety and by adding the following to subdivision (B) as a new subdivision:

() Credit for any trade-in; as determined by § 67-6-510.

SECTION 4. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following new subdivisions:

() "Grooming and hygiene products" are soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, regardless of whether the items meet the definition of "over-the-counter-drugs".

() "Over-the-counter-drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

(A) A "Drug Facts" panel; or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

"Over-the-counter-drug" does not include grooming and hygiene products.

SECTION 5. Tennessee Code Annotated, Section 67-6-103, is amended by deleting the language in subsection (g) in its entirety and substituting instead the following:

The state sales tax received under the provisions of this chapter from interstate telecommunications sold to businesses shall be distributed as follows: The revenue from a rate equal to four percent (4%) of tax shall be deposited in the telecommunications ad valorem tax reduction fund created by § 67-6-222. All other revenue shall be deposited in the state general fund and allocated pursuant to subsections (a) and (c).

SECTION 6. Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) Notwithstanding the provisions of subsections (a) and (b), all revenue generated from the one-half percent (0.5%) increase in the sales tax rate that became effective April 1, 1992, shall be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12).

SECTION 7. Tennessee Code Annotated, Section 67-6-206(b)(2), is amended by deleting the words "reduced rates" and substituting instead the word "exemption".

SECTION 8. Tennessee Code Annotated, Section 67-6-207(a), is amended by inserting a comma in the first sentence immediately after the word "repair".

SECTION 9. Tennessee Code Annotated, Section 67-6-229, is amended by deleting the last sentence thereof and substituting instead the following sentence:

This section does not apply to sales of school books, food and food ingredients, or prepared food when sold pursuant to programs authorized by a federal, state or local government entity or by the school governing body, that provide meals for public or private school students in grades kindergarten through twelve (K-12).

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 10. Tennessee Code Annotated, Section 67-6-313, is amended by deleting the language in subsection (a) in its entirety and by substituting instead the following:

It is not the intention of this chapter to levy a tax upon articles of tangible personal property imported into this state for export, or produced or manufactured in this state for export. If the sale of tangible personal property imported into this state is sourced to this state pursuant to Part 9 of this chapter, this exemption shall apply provided that the purchaser's use of the tangible personal property imported into this state is limited to storage, inspection, or repackaging for shipment of the property for export outside this state.

SECTION 11. Tennessee Code Annotated, Section 67-6-314, is amended by adding the words "dispensed pursuant to a prescription" immediately following the existing language in subdivision (2) and is further amended by adding the words "dispensed pursuant to a prescription" immediately following the existing language in subdivision (3) and is further amended by deleting subdivision (4) in its entirety and renumbering the remaining subdivisions accordingly.

SECTION 12. Tennessee Code Annotated, Section 67-6-317, is amended by deleting the language therein in its entirety and substituting instead the following:

The sale of disposable non-prosthetic ostomy products for use by persons who have had colostomies, ileostomies, or urostomies is exempt from the tax levied by this chapter.

SECTION 13. Tennessee Code Annotated, Section 67-6-320, is amended by deleting subsections (a) and (b) in their entirety and substituting instead the following:

(a) There is exempt from the tax imposed by this chapter any drug, including over-the-counter-drug for human use dispensed pursuant to a prescription. This exemption shall not apply to grooming and hygiene products.

(b) There is exempt from the tax imposed by this chapter:

(1) The sale or use of insulin.

(2) The sale or use of medical oxygen for human use dispensed pursuant to a prescription, and the disposable medical supplies necessary to administer such oxygen.

SECTION 14. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting subdivision (22) in its entirety and substituting instead the following:

(22) Prepared food, as defined in § 67-6-228, when sold pursuant to programs authorized by a federal, state or local government entity or by the school governing body, that provide meals for public or private school students in grades kindergarten through twelve (K-12). This provision shall not be interpreted to exempt a public or private school or school support group from paying sales or use taxes on the cost price of prepared food or food and food ingredients, as defined by § 67-6-228, purchased for resale by the school or a school support group at fund raisers,

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

sports events and the like pursuant to the provisions of § 67-6-229, or to exempt sales from any vending machine, including vending machines located on the premises of public or private schools, from the sales tax.

SECTION 15. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting the language in subdivision (2) in its entirety and substituting instead the following:

(2) Motor vehicle fuel now taxed per gallon by Chapter 3, Part 2 of this title;

SECTION 16. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting subdivision (5) in its entirety.

SECTION 17. Tennessee Code Annotated, Section 67-6-337, is amended by deleting the language therein in its entirety and substituting instead the following:

There are exempt from the tax imposed by this chapter all sales for which the consideration given is food stamps, food coupons or for which an electronic debit card or other electronic benefits transfer system is used or which utilizes such other means as the Department of Human Services may approve, and which cards, systems or other means may be issued, authorized or used by the department or the federal government, their agents or contractors to assist persons, on a means-tested basis, to purchase eligible food and food ingredients, prepared food, candy and dietary supplements in accordance with the laws and regulations issued by the federal government pursuant to the Food Stamp Act of 1964, 7 U.S.C. § 2011 et seq., or the department pursuant to Title 71, Chapter 5, Part 3, or in accordance with any other current enabling legislation or subsequent enabling legislation or regulations authorizing issuance of food coupons, food stamps or the use of any electronics benefits transfer process, including, but not limited to, the use of any electronic debit card system or other such system as the department may approve. If any other consideration other than that provided for in the preceding sentence is used in any sale, that portion of such sale shall be fully taxable.

SECTION 18. Tennessee Code Annotated, Section 67-6-408, is amended by inserting the words, symbols and punctuation "and § 67-4-2701" between the word "chapter" and the word "from" in subsection (1), and by inserting the words, symbols and punctuation "and § 67-4-2307" between the word "chapter" and the word "from" in subsection (2).

SECTION 19. Tennessee Code Annotated, Title 67, Chapter 6, Part 5, is amended by adding the following as a new section:

67-6-5____. (a) Notwithstanding Chapter 856, § 4(g), of the Public Acts of 2002, sales to or use by a contractor, subcontractor, or material vendor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery, or installation of such tangible personal property when such property is sold or used solely in performance of a lump sum or unit price construction contract entered into prior to July 15, 2002, or awarded by the state or a political subdivision pursuant to a bid opening which occurred prior to July 15, 2002, shall be subject to tax at the rate of the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202 plus the applicable local option sales tax rate under the provisions of Part 7 of this chapter. In addition, sales to or use by a

subcontractor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery, or installation of such tangible personal property when such property is sold or used solely in performance of a written subcontract entered into prior to September 1, 2002, if such subcontract is made pursuant to a general contract described in this section, shall be subject to tax at the rate of the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202.

(b) If the tax in subsection (a) is paid to a vendor, such contractor or subcontractor may file a claim with the commissioner for a refund of any such tax paid to any of the contractor's vendors at a rate in excess of six percent (6%) plus the local option sales tax rate in effect or operative on July 1, 2002, in the county or municipality in which the sale is sourced.

(c) If the tax in subsection (a) is remitted directly to the department by such contractor or subcontractor, the contractor or subcontractor may claim a credit on its sales and use tax return covering the same period in which the tax is paid. Such credit shall equal the amount of tax remitted to the department at a rate in excess of six percent (6%) plus the local option sales tax rate in effect or operative on July 1, 2002, in the county or municipality in which the sale is sourced.

(d) For purposes of this section the term "lump sum or unit price construction contract" means a written contract for the construction of improvements to real property under which the amount payable to the contractor, subcontractor or material vendor is fixed without regard to the costs incurred in the performance of the contract.

SECTION 20. Tennessee Code Annotated, Section 67-6-509, is amended by adding the following new subsections:

(c) Notwithstanding subsection (a) above, a model 1 seller under the Streamlined Sales and Use Tax Agreement shall not be entitled to the vendor's compensation described in subsection (a).

(d)(A) In addition to any compensation that may be provided under subsection (a) above, the commissioner is authorized to provide the monetary allowances required to be provided by the state to certified service providers and voluntary sellers pursuant to Article VI of the Streamlined Sales and Use Tax Agreement as it may be amended from time to time.

(B) Such monetary allowances shall be in the form of vendor's compensation allowances that certified service providers or voluntary sellers are permitted to retain from the tax revenue collected on remote sales to be remitted to the state pursuant to this chapter.

(C) The details of such monetary allowances shall, in the case of a model 1 seller, be outlined in each contract between the Streamlined Sales and Use Tax Agreement governing board and the certified service provider. Vendor's compensation rates on remote sales that may be retained by a

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

volunteer model 2 or model 3 seller and all other volunteer sellers that are not model 2 or 3 sellers shall be determined by the commissioner in accordance

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

with the provisions of Article VI of the Streamlined Sales and Use Tax Agreement and the commissioner shall cause such rates and their effective dates to be filed with the secretary of state for publication in the Tennessee Administrative Register.

(D) Vendor's compensation rates published in the Tennessee Administrative Register shall remain in effect until new rates determined by the commissioner and published in the Tennessee Administrative Register become effective.

(e) For purposes of subsection (d) above, "voluntary seller" or "volunteer seller" means a seller that does not have a requirement to register in Tennessee to collect the Tennessee tax pursuant to this chapter and "remote sales" means revenue generated by such a seller for Tennessee for which the seller does not have a requirement to register to collect the Tennessee tax pursuant to this chapter.

SECTION 21. Tennessee Code Annotated, Section 67-6-536, is amended by deleting all of the language of subsection (d) and substituting instead the following:

Notwithstanding any provision of law to the contrary, a seller that is:

(1) registered using the central registration system provided by states that are members of the Streamlined Sales and Use Tax Agreement; and

(2) does not have a legal requirement to register in this state; and

(3) is not a Model 1, 2 or 3 seller; and

(4) has not accumulated more than one thousand dollars (\$1,000) in state and local sales and use taxes;

shall be permitted to file a sales and use tax return at any time within one year of the month of initial registration and shall be permitted to file future returns on an annual basis in succeeding years. Such returns shall be due the twentieth (20th) day of the month following the tax period covered by the return. A seller that has accumulated Tennessee state and local sales and use tax funds in the amount of one thousand dollars (\$1,000) shall file a return by the twentieth (20th) day of the month following the month in which such accumulated taxes reach or exceed one thousand dollars (\$1,000). Nothing in this subsection (d) shall relieve a seller who collects Tennessee sales or use tax from its customers from liability for failure to pay over those funds to the commissioner on behalf of the state.

SECTION 22. Tennessee Code Annotated, Section 67-6-537, is amended adding the following as a new subsection (d):

(d) A seller or certified service provider shall not have any additional liability for state or local option taxes imposed by this chapter if the taxpayer or certified service provider charged and collected an incorrect amount of sales or use tax in reliance on erroneous data in the taxability matrix provided by the department pursuant to Section 328(A) of the Streamlined Sales and Use Tax Agreement.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 23. Tennessee Code Annotated, Section 67-6-608, is amended by adding the following as a new subsection:

(c) The fact that a person has registered pursuant to this section shall not be used in determining whether such person so registered has sufficient nexus with Tennessee so as to be subject to any tax at any time.

SECTION 24. Tennessee Code Annotated, Section 67-6-702, is amended by inserting the words "sold unaffixed to realty as completed units" immediately after the words "modular homes" in subsection (d).

SECTION 25. Tennessee Code Annotated, Section 67-6-702, is amended by adding the following as a new subsection:

(h) Notwithstanding any other law to the contrary, sales of tangible personal property upon which a state sales and use tax is levied shall be subject to a local sales and use tax at the rate of two and one-fourth percent (2.25%) when obtained from any vending machine or device.

SECTION 26. Tennessee Code Annotated, Section 67-6-706(a)(3), is amended by deleting all of the language after the semicolon therein and substituting instead the following:

provided, that no tax shall be collected under any such ordinance or resolution until the earliest effective date allowed under the provisions of this part.

SECTION 27. Tennessee Code Annotated, Section 67-6-710, is amended by adding the following new subsection:

(1) Proceeds of the tax provided for in § 67-6-702(h) shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (1) of this subsection shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

SECTION 28. Tennessee Code Annotated, Section 67-6-712, is amended by adding the following as a new subsection:

() When local sales tax revenues received by the department cannot be identified to a particular situs, the following distribution shall be made.

(1) Fifty percent (50%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census and other census authorized by law. Counties and incorporated municipalities shall use

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

such funds in the same manner and for the same purposes as funds distributed pursuant to § 67-6-712; and

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

(2) Fifty percent (50%) shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(3) The amount received by the county under subdivision (2) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

SECTION 29. Tennessee Code Annotated, Section 67-6-716, is amended by deleting the language "made a reasonable effort to notify dealers of the new tax or change in the rate" in subsections (1), (2) and (3) and substituting instead the language "issued general notification of the new tax or change in the rate to dealers affected".

SECTION 30. Tennessee Code Annotated, Section 67-6-901, is amended by deleting the symbols, numbers, and punctuation "§ 67-9-902(d)," wherever they appear and substituting instead the symbols, numbers, and punctuation "§ 67-6-902(d)," and is further amended by deleting the symbols, numbers and punctuation "§ 67-9-905," and substituting instead the symbols, numbers, and punctuation "§ 67-6-905,".

SECTION 31. Tennessee Code Annotated, Section 67-6-901(c), is amended by deleting the words and punctuation "modular homes," in subdivision (1).

SECTION 32. Tennessee Code Annotated, Section 67-6-902(c), is amended by inserting the words, punctuation and numbers "and watercraft with a displacement of under fifty (50) tons," between the letter and punctuation "(d)", and the word "shall".

SECTION 33. Tennessee Code Annotated, Section 67-6-903, is amended by deleting the punctuation and letter "(b)" in subsection (d) and substituting instead the punctuation and letter "(c)".

SECTION 34. Tennessee Code Annotated, Section 67-6-906, is amended by deleting the language therein in its entirety and substituting instead the following:

(a) The retail sale, excluding the lease or rental, of watercraft with a displacement of less than fifty (50) tons and the sale or transfer, including lease or rental, of manufactured homes, or mobile homes; and the retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in § 67-6-902(d); shall be sourced as follows:

(1) If a dealer regularly engaged in making sales or transfers of the property being sold, the transaction is sourced to the business location of the dealer making the sale and the dealer shall collect the applicable state and local sales tax.

(2) If the sale or transfer of property is made by a dealer or person not regularly engaged in making sales or transfers of the property being sold, and such property is required by law to be registered and/or titled by the county clerk or the agency with which the property is licensed, registered or otherwise recorded requires sales tax to be paid to the county clerk as a prerequisite,

the clerk shall collect the applicable state and local sales or use tax at the rate applicable in the clerk's county jurisdiction.

(3) In all other situations where Tennessee sales or use tax is due but has not been paid by the purchaser, the purchaser shall file a use tax return with the commissioner and pay the applicable state and local tax. In such a case, the purchaser shall pay the local use tax at the rate applicable in the county or municipality where the place of primary use of the property takes place.

(4) For purposes of subsection (3) above, the place of primary use of the property shall be the owner's Tennessee street address. If the owner has more than one Tennessee address, the place of primary use of the property shall be the primary street address at which the owner keeps the property. The property's place of primary use shall not be altered by intermittent use at different locations, such as the use of business property that accompanies employees on business trips and service calls.

(b) Notwithstanding any other law to the contrary, the retail sale, including the lease or rental, of watercraft with a displacement of fifty (50) tons or more shall be sourced under the provisions of § 67-6-902(d).

SECTION 35. Tennessee Code Annotated, Title 67, Chapter 6, Part 9, is amended by adding the following as a new section:

67-6-9____. (a) For purposes of this section, a "retail florist" is a seller who is primarily engaged in the retail sale of cut flowers and floral arrangements that are primarily either sold over-the-counter or delivered locally by the same florist. For this purpose, the term "primarily" means more than fifty percent (50%) of the seller's total gross sales or receipts are derived from that activity. In determining if a business is primarily a florist, the total sales price of cut flowers and floral arrangements includes all charges made by the florist to the purchaser of such as separately stated delivery or service charges. All service, relay and any other charges for orders, including charges for long distance telephone calls and telegraph service that are separately stated and represent cost to the retail florist, without any mark-up, shall be considered to be part of the total selling price subject to the sales tax.

(b) Notwithstanding any other law to the contrary, the sale of cut flowers, floral arrangements, potted plants and any associated tangible personal property by a retail florist shall be sourced as follows:

(1) If the transaction takes place prior to January 1, 2006;

(A) the sale shall be sourced to the location of the florist that took the order from the purchaser even if such florist forwards the order to another retail florist in a different taxing jurisdiction to prepare and deliver to the recipient identified by the purchaser; and

(B) the retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax

applicable in such retail florist's taxing jurisdiction and remit such tax to the appropriate taxing authority; and

(C) if a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, such receiving florist will not be held liable for tax with respect to any receipts that such florist may realize from the transaction.

(2) If the transaction takes place on or after January 1, 2006, and the retail florist taking the order forwards it to another retail florist in a different taxing jurisdiction to prepare and deliver to the recipient identified by the purchaser, the sale is sourced to the location in the taxing jurisdiction where delivery to the recipient (the purchaser's donee) occurs; and

(A) the retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax applicable in the taxing jurisdiction where delivery to the recipient (the purchaser's donee) occurs and remit such tax to the appropriate taxing authority; and

(B) if a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, such receiving florist will not be held liable for sales or use tax with respect to any receipts that such florist may realize from the transaction.

SECTION 36. Tennessee Code Annotated, Title 67, Chapter 4, Part 23, is amended by adding the following as a new section:

67-4-23. It is not the intention of this part to levy a tax upon articles of tangible personal property imported into this state for export, or produced or manufactured in this state for export. If the sale of tangible personal property imported into this state is sourced to this state pursuant to Part 9 of Chapter 6, this exemption shall apply provided that the purchaser's use of the tangible personal property imported into this state is limited to storage, inspection, or repackaging for shipment of the property for export outside this state.

SECTION 37. Tennessee Code Annotated, Section 67-4-2302, is amended by deleting the following language and punctuation in subsection (b):

, and shall have the authority and power to prescribe the method by which persons liable for the tax levied shall remit the tax and make reports of such facts and information as will enable the commissioner to ascertain the correctness of the amount reported and paid by such persons

and is further amended by deleting the present language of subsection (c) in its entirety and substituting instead the following:

The exemptions provided for in Sections 67-6-308, 67-6-322, 67-6-325, 67-6-326, 67-6-328, 67-6-329, 67-6-331, 67-6-340, and 67-6-384 are applicable to the tax levied under this part.

and is further amended by adding the following new subsection (d):

(d)(1)(A) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this part, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the purchase price arising from the purchase, use, importation for use, or consumption of the goods and services taxed pursuant to this part during the preceding calendar month.

(B) At the time of transmitting the return required hereunder to the commissioner, the dealer shall remit to the commissioner therewith the amount of tax due, and failure to so remit such tax shall cause the tax to become delinquent.

(2)(A) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes thereby imposed.

(B) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(3)(A) When any person shall fail to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of same, the commissioner is authorized to determine the tax liability of such person from whatever source of information may be available to the commissioner or the commissioner's delegates.

(B) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return, together with such supporting evidence as the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

(4)(A) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of special user privilege tax owed to the state, and the amount of such person's purchases, uses, importations for use, or consumption taxable under this part, and such other books of account as may be necessary to determine the amount of tax hereunder, and all such books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by either of them.

(B) All such books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction(s) represented by the record.

SECTION 38. Tennessee Code Annotated, Section 67-4-2303(h)(1), is amended by deleting in its entirety all language and punctuation following the word "distributed" in subdivision (B) and substituting instead the following:

to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion that the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census or other census authorized by law.

SECTION 39. Tennessee Code Annotated, Section 67-4-2304, is amended by deleting the language of subsection (b) in its entirety and substituting instead the following:

The tax collected pursuant to this section shall be deposited in the state general fund.

SECTION 40. Tennessee Code Annotated, Section 67-4-2305, is amended by inserting in subsection (a) the words, symbols and punctuation "67-4-2307, 67-4-2701," between the symbols "§§" and the numbers and punctuation "67-6-302." and adding at the end of this section the following:

This section does not apply to sales of food and food ingredients, candy, dietary supplements, alcoholic beverages, tobacco and fuel.

SECTION 41. Tennessee Code Annotated, Section 67-4-2305(b), is amended by deleting in its entirety all language and punctuation following the word "distributed" in subdivision (2) and substituting instead the following:

to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion that the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census or other census authorized by law.

SECTION 42. Tennessee Code Annotated, Title 67, Chapter 4, Part 23, is amended by adding the following new section:

67-4-2308. (a) The taxes imposed by this part shall not apply to any property or services:

(1) upon which the sales or use tax imposed by Title 67, Chapter 6 has been paid;

(2) upon which a sales or use tax was previously legally imposed and collected by another state, at a rate equal to or greater than the rate of tax provided for in this part; or

(3) upon which another state has previously legally imposed and collected a tax substantially similar to the tax imposed by this part, at a rate equal to or greater than the rate of tax provided for in this part.

(b) If the taxes described in subsection (a) are at a rate lesser than the rate imposed by this part, the tax imposed by this part shall be at the difference between the rate of tax imposed by this part and the rate of the tax described in subsection (a).

(c) Notwithstanding subsections (a) and (b) above, the tax levied by this part shall apply without reduction for any sales or use tax or tax substantially similar to the tax levied by this part that is paid to another state on the same transaction if such state does not have the first right to tax or has no statutory provisions to reduce its sales or use tax, or tax substantially similar to the tax levied by this part, by any payment of the tax levied by this part. Each taxpayer seeking a reduction of the tax levied by this part due to payment of a sales or use tax or tax substantially similar to the tax levied by this part to another state on the same transaction shall furnish evidence to the satisfaction of the commissioner that the tax statutes of the other state would allow a reduction of its sales or use taxes or tax substantially similar to the tax levied by this part in like factual situations.

(d) The taxpayer shall bear the burden of maintaining documentary proof that the taxes described in subsection (a) have been paid.

SECTION 43. Tennessee Code Annotated, Section 67-4-2401, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) There is levied a privilege tax of 9 % of the gross charge for services provided by a cable television service provider authorized pursuant to Title 7, Chapter 59, or by a provider of wireless cable television services (multipoint distribution service/multichannel multipoint distribution service), when such services are delivered to the subscriber at a location in Tennessee.

SECTION 44. Tennessee Code Annotated, Section 67-4-2401(c)(2), is amended by deleting the language "to the cities and counties in accordance with collections" and substituting instead the following:

to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census and other census authorized by law

SECTION 45. Tennessee Code Annotated, Section 67-4-2402, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) There is levied a privilege tax of 8.25 % of the gross charge for services provided by a direct-to-home satellite service provider, when such services are delivered to the subscriber at a location in Tennessee.

SECTION 46. Tennessee Code Annotated, Section 67-4-2407(a), is amended by deleting the words "sales tax" and substituting the words "tax levied by this part".

SECTION 47. Tennessee Code Annotated, Title 67, Chapter 4, Part 24, is amended by adding the following new sections:

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

67-4-2408. The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-328, 67-6-329(a)(13), and 67-6-384 are applicable to the tax levied under this part.

67-4-2409. The tax imposed by this part shall not apply when the television programming or television services are sold for resale. "For resale" shall mean that the customer of the cable television service, wireless cable television service, or direct-to-home satellite provider purchases the services, sells those services to others, and is liable for the tax imposed by this part, or for the sales tax imposed by Title 67, Chapter 6, on its sales of those specific services. The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be a sale for resale is in fact a sale for resale. In cases where a customer purchases some services for resale and others for the customer's use and consumption, the seller must separate the taxable and resale amounts on the bill, invoice, or statement provided to its customer.

SECTION 48. Tennessee Code Annotated, Section 67-4-2507(a), is amended by deleting the words "sales tax" and substituting the words "tax levied by this part".

SECTION 49. Tennessee Code Annotated, Section 67-1-110(c), is amended by adding the following as a new subdivision (6) and by renumbering the remaining subdivisions accordingly:

(6) Know the department's policies with respect to use and retention of personally identifiable information;

SECTION 50. Tennessee Code Annotated, Section 67-1-1712, is amended by inserting the words "and the Department" between the word "Provider" and the word "shall" in subsection (a).

SECTION 51. Tennessee Code Annotated, Section 67-1-1802, is amended by adding the following language at the end of subsection (d):

If a certified service provider, as defined in § 67-6-102, has assumed sales and use tax return filing responsibilities of the seller, such provider shall have the right to claim, on behalf of the seller, any bad debt allowance or refund available to the seller under the provisions of § 67-6-507.

SECTION 52. Tennessee Code Annotated, Section 6-51-115(b), is amended by adding the following as a new subdivision (3):

When the amount of local option sales tax produced by businesses in the annexed area cannot be determined from sales tax returns filed by the businesses, the commissioner may determine the amount to be distributed to the county over the fifteen (15) year period based on the best information available. For this purpose, the commissioner may use information obtained from business tax returns or obtain additional information from the businesses involved.

SECTION 53. Tennessee Code Annotated, Section 6-51-115, is amended by adding the words, numbers, symbol and punctuation "except that § 67-6-716 shall control the

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

effective date of local jurisdictional boundary changes for sales and use tax purposes," between the word and punctuation "contrary," and the word "whenever" in the first sentence of subsection (a).

SECTION 54. Tennessee Code Annotated, Section 67-6-386, is amended by deleting the present language the words and punctuation ", except as provided in this section," in subsection (a) and is further amended by deleting the words "sold to commercial air carriers" in subsection (a) and is further amended by deleting subsection (c) in its entirety and relettering the remaining subsections accordingly.

SECTION 55. Tennessee Code Annotated, Section 67-4-2306 is repealed.

SECTION 56. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following as a new part:

PART 27 – AVIATION FUEL

67-4-2701. There is levied a privilege tax of 4.5% of the gross charge for the sale, the use, the consumption, the distribution and the storage of aviation fuel used in the operation of airplane or aircraft motors. For purpose of this part, "gross charge" shall include the actual price paid for the aviation fuel without any deductions therefrom, except for federal excise tax.

67-4-2702. (a) The taxes levied herein shall be collected from the dealer as defined in T.C.A. § 67-6-102 and paid at the time and in the manner hereinafter provided. The tax imposed by this chapter shall be collected by the dealer from the consumer insofar as it can be done.

(b) The dealer shall indicate in some definite manner whether the customer is paying this privilege tax. This indication must be stated on the ticket, invoice, or other record given to the customer.

(c) The tax levied by this section shall be paid by the purchaser in those cases where the seller of the aviation fuel is not liable to collect the tax.

(d) The tax levied by this part is a transactional tax in lieu of the sales or use tax and shall be considered a sales or use tax for purposes of reciprocity and giving credit for sales or use tax paid.

67-4-2703. (a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth (20th) day of each month to transmit to the commissioner returns showing the gross charges arising from the sale of aviation fuel taxable under this chapter during the preceding calendar month.

(b) Each dealer shall also remit the amount of tax due with each return required herein. If the taxes due with the return are not remitted to the commissioner before the due date of the return, the return shall be considered delinquent and penalty and interest shall attach to the taxes due as provided by law.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

(c) Each dealer of aviation fuel shall include on the return, a statement under penalty of perjury, evidencing the total amount in gallons of aviation fuel sold and the dollar amount collected from such sales, and any other information as may be required by the commissioner on forms prescribed by the department.

67-4-2704. (a) The Commissioner of Revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes thereby imposed.

(2) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to the provisions of this part.

67-4-2705. (a) When any person shall fail to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of same, the commissioner is authorized to determine the tax liability of such person from whatever source of information may be available to the commissioner or the commissioner's delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return, together with such supporting evidence as the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

67-4-2706. (a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of tax owed to the state, and the amount of such person's gross charges taxable under this part, and such other books of account as may be necessary to determine the amount of tax hereunder, and all such books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by either of them.

(b) All such books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction(s) represented by the record.

67-4-2707. The tax collected under this part shall be deposited to the transportation equity fund.

67-4-2708. The tax imposed by this part shall not apply when the aviation fuel is sold for resale. The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be a sale for resale is in fact a sale for resale.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

67-4-2709. The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-328, 67-6-329(a)(13), and 67-6-384 are applicable to the tax levied under this part.

67-4-2710. There is exempt from the tax imposed by this chapter fuel and petroleum products sold to or used by a commercial air carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier for a flight destined for or continuing from a location outside the United States.

67-4-2711. (a) A commercial air carrier may purchase aviation fuel without payment of tax to the dealer by presenting the dealer with a certificate issued pursuant to Tennessee Code Annotated, Section 67-6-528, in which case the carrier becomes liable for reporting and payment of the privilege tax pursuant to the terms of this section.

(b) For purposes of this section, "commercial air carrier" means an entity authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property by air in interstate or foreign commerce.

67-4-2712. (a) The tax imposed by this part shall not apply to any aviation fuel:

(1) upon which a sales or use tax was previously legally imposed and collected by another state, at a rate equal to or greater than the rate of tax provided for in this part; or

(2) upon which another state has previously legally imposed and collected a tax substantially similar to the tax imposed by this part, at a rate equal to or greater than the rate of tax provided for in this part.

(b) If the taxes described in subsection (a) are at a rate lesser than the rate imposed by this part, the tax imposed by this part shall be at the difference between the rate of tax imposed by this part and the rate of the tax described in subsection (a).

(c) Notwithstanding subsections (a) and (b) above, the tax levied by this part shall apply without reduction for any sales or use tax or tax substantially similar to the tax levied by this part that is paid to another state on the same transaction if such state does not have the first right to tax or has no statutory provisions to reduce its sales or use tax, or tax substantially similar to the tax levied by this part, by any payment of the tax levied by this part. Each taxpayer seeking a reduction of the tax levied by this part due to payment of a sales or use tax or tax substantially similar to the tax levied by this part to another state on the same transaction shall furnish evidence to the satisfaction of the commissioner that the tax statutes of the other state would allow a reduction of its sales or use taxes or tax substantially similar to the tax levied by this part in like factual situations.

(d) The taxpayer shall bear the burden of maintaining documentary proof that the taxes described in subsection (a) have been paid.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 57. Tennessee Code Annotated, Section 67-4-2302, is amended by adding the following as a new subsection:

() Any tax levied by this part is a transactional tax in lieu of the sales or use tax and shall be considered a sales or use tax for purposes of reciprocity and giving credit for sales or use tax paid.

SECTION 58. Tennessee Code Annotated, Section 67-6-805, is amended by deleting the present language in its entirety and substituting instead the following:

(a) The Commissioner of Revenue is authorized to enter into, on behalf of the State of Tennessee, the agreement styled "Streamlined Sales and Use Tax Agreement", adopted November 12, 2002, by the Streamlined Sales Tax Implementing States, including any amendment to the agreement so long as the amendment has also been adopted by the Streamlined Sales Tax Implementing States. After Tennessee becomes a member of the agreement, the commissioner is authorized to take any and all action pursuant to the state's membership in the agreement, provided such action is not inconsistent with any law of this state.

(b) No provision of any agreement entered into by the commissioner under the authority of subsection (a) invalidates or amends any provision of the law of the State of Tennessee. Implementation of any condition of the agreement in the State of Tennessee, whether adopted before, at, or after membership of the State of Tennessee in the agreement, must be authorized by the general assembly by legislative enactment.

(c) The agreement referenced in this section is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

(d) No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of the State of Tennessee and the other member states and not by the terms of the agreement.

(e) No person shall have any cause of action or defense under the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the State of Tennessee, or any political subdivision of the State of Tennessee on the grounds that the action or inaction is inconsistent with the agreement.

(f) No law of the State of Tennessee, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

(g) Determinations pertaining to the agreement that are made by the member states are final when rendered and are not subject to protest, appeal or review in any court in this state.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 59. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following as a new subdivision:

() "Resale" shall mean a subsequent, bona fide sale of the property, services, or taxable item by the purchaser. "Sale for resale" shall mean the sale of such property, services, or taxable item intended for subsequent resale by the purchaser. Any sales for resale must, however, be in strict compliance with rules and regulations promulgated by the commissioner.

SECTION 60. Tennessee Code Annotated, Section 67-6-102(31)(C) is amended by deleting the words and punctuation ", paging service, and cable television service sold to customers or to others by hotels or motels" and substituting instead the words "and paging service".

SECTION 61. Tennessee Code Annotated, Section 67-6-231, is amended by deleting the present language in its entirety and substituting instead the following:

The sale or use of computer software, including prewritten computer software, shall be subject to the tax levied by this chapter, regardless of whether such software is delivered electronically, by use of tangible storage media, or otherwise, and shall be sourced under the provisions of Part 9 of this chapter.

SECTION 62. Tennessee Code Annotated, Section 67-6-201(9), is amended by deleting the language "other than cable, wireless cable or satellite" and substituting instead the language "except for television services sold by persons subject to the tax in Title 67, Chapter 4, Part 24".

SECTION 63. Tennessee Code Annotated, Section 67-6-205(c)(9), is amended by deleting the language "other than cable, wireless cable or satellite" and substituting instead the language "except for television services sold by persons subject to the tax in Title 67, Chapter 4, Part 24".

SECTION 64. Tennessee Code Annotated, Title 67, Chapter 4, Part 24, is amended by adding the following new section:

67-4-2410. A person who has paid the tax imposed by this part on any sale taxable under this part may take credit for any bad debts arising from such sale, in any return filed under the provisions of this part. The provisions of §§ 67-6-507(e) and 67-1-1802(d) shall apply to such credit.

SECTION 65. Tennessee Code Annotated, Title 67, Chapter 4, Part 25, is amended by adding the following new section:

67-4-2507. A person who has paid the tax imposed by this part on any sale taxable under this part may take credit for any bad debts arising from such sale, in any return filed under the provisions of this part. The provisions of §§ 67-6-507(e) and 67-1-1802(d) shall apply to such credit.

SECTION 66. Tennessee Code Annotated, Section 67-6-349, is repealed.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 67. Tennessee Code Annotated, Section 67-6-407, is amended by deleting the present language in its entirety and substituting instead the following:

(a) The commissioner has the authority to require any person who pays the tax imposed by this chapter, if such tax is to be allocated to the transportation equity fund pursuant to § 67-6-103, to file a quarterly report not later than thirty (30) days after the last day of the preceding calendar quarter. Such report shall be executed under penalty of perjury, stating the total amount in gallons of fuel subject to the tax, the dollar amount of tax paid on such sales or uses, and any other information as may be required by the commissioner on forms prescribed by the department. The report required herein shall be supplemental to any other required by the commissioner or the department. A failure to file the report shall result in a civil penalty to be determined by the commissioner pursuant to the authority contained in § 67-6-402.

(b) The commissioner may furnish the reports authorized by this section, or the tax information contained therein, to the Department of Transportation solely for the purpose of administering the transportation equity fund. Any information released to the Department of Transportation pursuant to this subsection shall be subject to the provisions of Title 67, Chapter 1, Part 17, including the criminal penalties contained therein.

SECTION 68. Section 82 of Chapter 357 of the Public Acts of 2003, as codified in Tennessee Code Annotated, is amended by inserting the words, numbers, and punctuation "at 12:01 a.m." immediately following the word "then" in the last sentence.

SECTION 69. Sections 58 and 68 of this act shall take effect upon becoming a law, the public welfare requiring it. All other sections of this act shall take effect at 12:02 a.m. on the day that Section 1 of Chapter 357 of the Public Acts of 2003 takes effect, the public welfare requiring it.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 1

AMEND by deleting Section 54 in its entirety and by substituting instead the following:

SECTION 54. Tennessee Code Annotated, Section 67-6-386, is amended by deleting the words and punctuation ", except as provided in this section," in subsection (a), and is further amended by deleting the words "sold to commercial air carriers" in subsection (a), and is further amended by deleting the words "Commercial air carriers seeking to make purchases of aviation fuel exempt from tax and common" in subsection (c) and by substituting instead the word "Common", and is further amended by deleting subsection (d) in its entirety and relettering the remaining subsection accordingly.

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

On motion, Amendment No. 1, as amended, was adopted.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 67-4-2305(a), is amended by inserting the language "67-6-331," after the language "67-6-321,".

Pursuant to Rule 39(3), Amendment No. 2 was adopted by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

Thereupon, **Senate Bill No. 3454**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Williams moved that **Senate Bill No. 2152** be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senator Haynes moved that **Senate Bill No. 2391** be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senator Person moved that **Senate Bill No. 3099** be placed on the final calendar, which motion prevailed.

Senate Bill No. 3336 -- Utilities, Utility Districts -- Provides for selection of additional commissioners for certain multi-county water utility districts having a service area primarily located in DeKalb County. Amends TCA Section 7-82-307.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 7-82-307, is amended by adding the following language as a new, appropriately designated subsection:

(__)(1) Notwithstanding any provision of this section or any other law to the contrary, the membership of the board of commissioners for any multi-county water utility district, whose principal office is located in, and whose present service area primarily lies within, the boundaries of any county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census and containing and physically divided by a United States government corps of engineers dam and reservoir project of thirty-four thousand (34,000) acres, shall be as provided in this subsection. On the effective date of this act, board membership from the county containing the principal office and the primary service area of such utility district shall be increased by two (2) members giving such county three (3) members on the board. The other counties within the service area having not less than one hundred fifty (150) customers nor more than one thousand two hundred (1,200) customers, shall be represented by one (1) board member from each such county and the two (2) present board members shall continue to serve on the board for the remainder of their terms and be appointed from such counties as otherwise provided by law. As the customer base in such utility district grows, the membership of the board of commissioners shall be increased. One additional member shall be appointed from the county where the customer growth occurs at the ratio of one (1) board member per one thousand two hundred (1,200) customers within the county.

(2) The two (2) new members of the board of commissioners added pursuant to subdivision (1) shall be filled by appointment of the county mayor of the county containing the principal office and the primary service area of such utility district. As soon as possible after the effective date of this act, the existing board of commissioners shall select three (3) nominees for each of such two (2) new members, in full accordance with any residential requirements that may apply to the office created, and under the seal of the board of commissioners, shall certify such lists of nominees to the county mayor. Within twenty-one (21) days after the issuance of certification by the board of commissioners to the county mayor, the county mayor may enter an order either appointing one (1) of the nominees from each such list or rejecting one of the lists or both lists. Any order either appointing or rejecting a list of nominees shall be entered of record on the minutes of the county legislative body and a certified copy thereof shall be furnished to the board of commissioners and to the appointee; provided, that upon the rejection of any entire list of nominees by the county mayor, the board of commissioners shall continue to submit new nonidentical lists of three (3) nominees to the county mayor within sixty (60) days after each such rejection until such procedure shall result in the position being filled for the new term, as herein provided. If the county mayor fails to make an appointment for a position from such list or lists following three submissions for such position, then the county mayor shall appoint the director or directors for such position or positions, as the case may be, without any further nominations.

(3) Notwithstanding any provision of this section or any other law to the contrary, within two (2) weeks after the occurrence of a vacancy in the office of any commissioner and no later than thirty (30) days prior to the scheduled expiration of the term of office of any incumbent commissioner, the board of commissioners or its remaining members shall select three (3) nominees to fill such office, in full accordance with residential requirements applicable to the office vacated or to be vacated, and, under the seal of the board of commissioners, shall certify such list of nominees to the county mayor of the county whose representation on the board will be directly affected by the vacancy. Copies shall also be sent to the county mayors of the other two (2) counties. If all three (3) nominees are rejected by the mayor of the affected county, then the nominating process shall be repeated and repeated again, if necessary. Thereafter, without any further nominations, the county mayor shall appoint a person to fill such vacancy for the remainder of the term or for the next term of office.

(4) Notwithstanding any provision of this section or any other law to the contrary, any member of the board of commissioners appointed by a county mayor in the water utility district described in subdivision (1) shall not have to be approved by the other county mayors in such district.

(5) Notwithstanding any provision of this section or any other law to the contrary, no contract entered into or renewed after the effective date of this act for the sale of water to a water utility district described in subdivision (1) shall, and it is against public policy for such a contract to, contain a clause which prohibits the district from lawfully selling water to other municipalities or governmental entities.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 3336**, as amended, passed its third and final consideration by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senator Graves moved that **Senate Bill No. 3394** be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

Senate Bill No. 3427 -- Taxes, Excise -- Revises provisions governing depreciation for purposes of determining net earnings or losses. Amends TCA Section 67-4-2006.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

On motion, Senate Bill No. 3427 was made to conform with **House Bill No. 3529**.

On motion, House Bill No. 3529, on same subject, was substituted for Senate Bill No. 3427.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Senator Southerland declared Rule 13 on **House Bill No. 3529**.

Thereupon, **House Bill No. 3529** passed its third and final consideration by the following vote:

Ayes	26
Noes	5
Present, not voting	1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Person, Ramsey, Williams and Mr. Speaker Wilder--26.

Senators voting no were: Fowler, Graves, Miller, Norris and Trail--5.

Senator present and not voting was: Southerland--1.

A motion to reconsider was tabled.

Senate Bill No. 3419 -- Taxes, Sales -- Authorizes Commissioner of Revenue to enter into managed compliance agreements concerning sales and use tax rates with an eligible dealer in certain circumstances. Amends TCA, Title 67, Chapter 6.

On motion, Senate Bill No. 3419 was made to conform with **House Bill No. 3479**.

On motion, House Bill No. 3479, on same subject, was substituted for Senate Bill No. 3419.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3479** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator McNally moved that **Senate Resolution No. 158**, as amended, be placed on the calendar for Thursday, May 13, 2004, which motion prevailed.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senate Bill No. 2291 -- Bail, Bail Bonds -- Limits time clerk can demand payment for execution on final bail bond judgments to 180 days. Amends TCA Title 40, Chapter 11, Part 1.

On motion, Senate Bill No. 2291 was made to conform with **House Bill No. 2263**.

On motion, House Bill No. 2263, on same subject, was substituted for Senate Bill No. 2291.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2263** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MOTION

Senator Trail moved that Rule 38 be suspended for the purpose of making and considering Consent Calendar No. 3 consisting of the following resolutions: **Senate Joint Resolutions Nos. 1141 and 1149**, which motion prevailed.

CONSENT CALENDAR NO. 3

Senate Joint Resolution No. 1141 -- Memorials, Interns -- Richard Smith.

Senate Joint Resolution No. 1149 -- Naming and Designating -- "National Drug Court Month" in Tennessee, May 2004.

Senator Trail moved that all Senate Joint Resolutions be adopted, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MOTION

Senator Kurita moved that Rule 38 be suspended for the purpose of making and considering Consent Calendar No. 4 consisting of the following resolutions: **Senate Joint Resolutions Nos. 1144, 1145 and 1146**, which motion prevailed.

CONSENT CALENDAR NO. 4

Senate Joint Resolution No. 1144 -- Memorials, Public Service -- Holly Petraeus.

Senate Joint Resolution No. 1145 -- Memorials, Congratulations -- Montgomery Central High School Drill Team.

Senate Joint Resolution No. 1146 -- Memorials, Heroism -- Major General David H. Petraeus.

Senator Kurita moved that all Senate Joint Resolutions be adopted, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MOTION

Senator Williams moved that Rule 83 be suspended for the purpose of allowing the Committee on Transportation to meet today, immediately after Session, to consider **House Joint Resolutions Nos. 1002, 1011, 1072 and 1079**, which motion prevailed.

MOTION

Senator Ford moved that Rule 83 be suspended for the purpose of allowing the Committee on General Welfare, Health and Human Resources to meet on Tuesday, May 11, 2004, at 1:15 p.m. to consider **Senate Bill No. 2312**, which motion prevailed.

MOTION

Senator Person moved that Rule 83(8) be suspended for the purpose of placing **Senate Bills Nos. 1167, 3203 and 3516** on the calendar for the Committee on Judiciary for Tuesday, May 11, 2004, which motion prevailed.

MOTION

Senator Cohen moved that Rule 83 be suspended for the purpose of allowing the Committee on State and Local Government to meet on Tuesday, May 11, 2004, at 1:00 p.m. to consider **Senate Bill No. 3094**, which motion prevailed.

MOTION

Senator Cooper moved that Rule 83 be suspended for the purpose of allowing the Committee on Commerce, Labor and Agriculture to meet on Wednesday, May 12, 2004, at 1:30 p.m., which motion prevailed.

MOTION

Senator Henry moved that Rule 83(8) be suspended for the purpose of allowing all bills on the calendar for the Committee on Finance, Ways and Means on Wednesday, May 12, 2004, to be heard on Tuesday, May 11, 2004, which motion prevailed.

SENATE MESSAGE CALENDAR

Senator Crowe moved that **Senate Bill No. 348** be placed on the Message Calendar for Thursday, May 13, 2004, which motion prevailed.

Mr. Speaker Wilder moved that **Senate Bill No. 2300** be placed at the heel of the Message Calendar for today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2329 -- Unemployment Compensation -- Provides that certain individuals, who are deemed by the IRS not to be employees of certain firms for purposes of certain federal statutes, shall not be deemed to be employees of such firms for purposes of the Tennessee employment security law. Amends TCA Title 50, Chapter 7.

Senator Cooper moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 2 to **Senate Bill No. 2329**, which motion prevailed.

Senator Cooper moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **Senate Bill No. 2329**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
SENATE BILL NO. 2329**

The Speaker announced the appointment of a Conference Committee composed of Senators Cooper, Chairperson; Clabough and Trail to confer with a like committee from the House to resolve the differences of the two Bodies on Senate Bill No. 2329.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2667 -- Abuse -- Requires Department of Children Services to train in the department on legal duties of representatives; requires child protective services team to advise individual under investigation of complaints and allegations made against individual. Amends TCA Title 37.

HOUSE AMENDMENT NO. 2

AMEND by adding the following language as a new Section 3 and by renumbering Section 3 of the bill as Section 4:

SECTION 3. Tennessee Code Annotated, Section 37-1-406, is amended by adding the following as a new subsection (l):

(l) The legislative intent of this section is to protect the legal rights of the family in an investigation and to ensure that no activity occurs which compromises the department's child abuse investigation or any ongoing concurrent criminal investigation conducted by law enforcement.

Senator McLeary moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 2667**, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3120 -- Food and Food Products -- Grants immunity from certain liability for restaurants and similar food service establishments for donations to certain bona fide nonprofit organizations except for gross negligence or intentional conduct. Amends TCA Title 53.

HOUSE AMENDMENT NO. 1

AMEND by adding a new, appropriately designated section as follows:

SECTION _____. The "Common Sense Consumption Act", enacted by the One Hundred Third General Assembly through passage of SB 2379/HB 3041 (Public Chapter ____), is amended by inserting between the word "manufacturer" and the word "packer," in subsection (a) of the amendatory language of Section 2 the word "producer".

Senator Burchett moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3120**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2346 -- Taxes, Litigation -- Authorizes Davidson and Shelby counties to impose a local litigation tax on each civil case filed in general sessions court, or in a court where the general sessions judge serves as judge, except juvenile court; authorizes such counties to impose local litigation tax on each criminal conviction in general sessions court. Amends TCA Section 16-15-5006.

HOUSE AMENDMENT NO. 1

AMEND by deleting Section 1 in its entirety and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 16-15-5006, is amended by deleting the second sentence of subsection (a) and substituting instead the following:

Counties, except those having a population in excess of five hundred thousand (500,000) according to the 2000 federal census and any subsequent federal census and a metropolitan form of government, are authorized to impose a local litigation tax on each civil case filed in general sessions court, or in a court where the general sessions judge serves as judge, except juvenile court, and are authorized to impose a local litigation tax on each criminal conviction in general sessions court

Senator Kyle moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2346**, which motion prevailed by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3371 -- Motor Vehicles, Titling and Registration -- Prohibits any materials around a license plate that covers or conceals any information on the license plate; prohibits any tinted material from covering a license plate. Amends TCA Title 55, Chapter 4, Part 1.

HOUSE AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 55-4-110(b), is amended by adding the following language to the end thereto:

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

No tinted materials may be placed over a license plate even if the information upon such license plate is not concealed.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Burchett moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3371**, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 2

AMEND by adding the following language as a new, appropriately designated section immediately preceding the effective date section:

SECTION __. Tennessee Code Annotated, Section 55-4-110, is amended by adding the following language as a new subsection (c):

(c)(1) A violation of this section is a Class C misdemeanor. All proceeds from the fines imposed by this subsection shall be deposited in the state general fund.

(2) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of ten dollars (\$10.00) for a first violation, and twenty dollars (\$20.00) on second and subsequent violations to the clerk of the court which has jurisdiction of such offense within the county in which the offense charged is alleged to have been committed.

Senator Burchett moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3371**, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3258 -- Day Care -- Requires vehicles transporting children for a child care center to be equipped with a security alarm system. Amends TCA Title 49 and Title 71.

HOUSE AMENDMENT NO. 1

AMEND by deleting the amendatory language of Section 1 in its entirety and by substituting instead the following:

(iii) The department shall also promulgate rules providing that, on and after May 1, 2005, all vehicles used by or on behalf of a child care center to provide transportation of children, that are designed to transport six (6) or more passengers, shall be equipped with a child safety monitoring device which shall prompt staff to inspect the vehicle for children before an alarm sounds. In order to facilitate the affordability of such devices for centers, the department is authorized to establish a grant program to subsidize a portion or all of the cost of such devices for centers; provided, however, the department may only use private donations that it receives for such purpose to fund the grants. Only devices approved by the department are authorized for use on such a vehicle.

The provisions of this item shall not apply:

(a) When all children in a vehicle are five (5) years of age and in kindergarten, or older than five (5) years of age, except that if any one (1) of such children is developmentally or physically disabled or non-ambulatory then the provisions of this item shall apply; or

(b) To vehicles used exclusively for the provision of occasional field trips.

Senator Dixon moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3258**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3359 -- Highway Signs -- "Van Riggins Memorial Highway", U.S. 79 in Stewart County.

HOUSE AMENDMENT NO. 1

AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. The Department of Transportation is directed to add appropriate language and/or symbols to include the City of Bristol as a destination on existing signage for Exit 69 (State Route 394), both northbound and southbound, on Interstate Highway 81 in Sullivan County.

SECTION _____. The Department of Transportation is directed to erect and maintain a sign bearing the language "BRISTOL NEXT 6 INTERCHANGES" on Interstate Highway 81 northbound between Exit 66 and Exit 69 at a location consistent with current Federal Highway Administration and Tennessee Department of Transportation regulations to complement similar signage already in place on Interstate Highway 81 southbound in Virginia.

SECTION _____. The Department of Transportation is directed to erect and maintain a sign for White Top Creek Park (formerly known as the Multi-Purpose Park) in the City of Bristol on State Route 394 east of White Top Road at the entrance to White Top Creek Park. Such sign shall contain language and/or symbols sufficient to direct motorists to the entrance to White Top Creek Park.

SECTION _____. The provisions of this act providing for the erection or modification of signage for the City of Bristol on Interstate Highway 81 and State Route 394 shall become operative only if the Federal Highway Administrator advises the Commissioner of Transportation in writing that the provisions of this act shall not render Tennessee in violation of federal laws and regulations and subject to penalties prescribed therein.

SECTION _____. (1) The provisions of this act providing for the erection or modification of signage for the City of Bristol on Interstate Highway 81 and State Route 394 shall become operative only if the City of Bristol in Sullivan County, Tennessee, either remits the estimated cost of the erection of such signs to the Department of Transportation within one (1) year of the effective date of this act or manufactures such signs in accordance with the provisions of subdivision (2). The City of Bristol shall make such payment prior to any expenditure by the state for the manufacture or installation of such signs. The department shall return any unused portion of the estimated cost to the City of Bristol within thirty (30) days of the erection of such signs. If the actual cost exceeds the estimated cost, the City of Bristol shall remit an amount equal to the difference in such costs to the department within thirty (30) days of receiving an itemized invoice of the actual cost from the department.

(2) The City of Bristol may manufacture and erect such signs provided, that such signs are manufactured and erected pursuant to state and federal guidelines and approved by the department.

Senator Herron moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3359**, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3455 -- Mortgages -- Establishes registration requirements for mortgage loan originators; revises other provisions governing residential lending, brokerage and services. Amends TCA Title 45, Chapter 5 and Chapter 13.

HOUSE AMENDMENT NO. 2

AMEND by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 45-13-102, is amended by deleting the section in its entirety and substituting instead the following language:

45-13-102. Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Commissioner" means the Commissioner of Financial Institutions;
- (2) "Branch manager" means the individual whose principal office is physically located in, who is in charge of, and who is responsible for the business operations of a branch office of a licensee or registrant;
- (3) "Branch office" means an office of a licensee or registrant that is separate and distinct from the licensee's or registrant's principal place of business;
- (4) "Certificate of registration" means a certificate of registration issued to a registrant pursuant to § 45-13-119;
- (5) "Control" means possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities by contract or otherwise; provided, that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of such person. For purposes of this section, a person who, directly or indirectly, owns, controls, holds the power to vote, or holds proxies representing twenty-five percent (25%) or more of the then outstanding voting securities issued by another person is presumed to control such other person. For purposes of this section, the commissioner may determine whether a person, in fact, controls another person;
- (6) "License" means a license issued pursuant to § 45-13-105;
- (7) "Licensee" means a person to whom a license has been issued;
- (8) "Managing principal" means a person who agrees to be primarily responsible for the operations of a licensee or registrant;

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

(9) "Mortgage" means a "mortgage" or "deed of trust" as defined in and allowed pursuant to § 66-5-103;

(10) "Mortgage lender" means any person who in the regular course of business lends money that is secured by a mortgage;

(11) "Mortgage loan" means any one-to-four family residential owner occupied loan secured by a first or second mortgage intended for personal, family, or household purposes;

(12) "Mortgage loan broker" means any person who for compensation or other gain, paid directly or indirectly, or in expectation of compensation or other gain, solicits, processes, places, negotiates or originates mortgage loans for others, or offers to solicit, process, place, negotiate or originate mortgage loans for others or who closes mortgage loans which may be in the mortgage loan broker's own name with funds provided by others and which loans are thereafter assigned to the person providing the funding of such loans; regardless of whether the acts are done directly or indirectly, through contact by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers;

(13) "Mortgage loan originator" means an individual who provides services to one and not more than one licensee or registrant, is subject to the direct supervision and control of that licensee or registrant, and in exchange for compensation by that licensee or registrant, performs any one or more of the acts described in subsection (12) of this section. The term does not include an employee of a licensee or registrant whose job responsibilities are limited to clerical tasks;

(14) "Mortgage loan servicer" means any person who in the regular course of business assumes responsibility for servicing and accepting payments for a mortgage loan;

(15) "Mortgagor" means any individual person who executes a mortgage which is a mortgage loan;

(16) "Person" means an individual, corporation, partnership or trust, as the context may require;

(17) "Registrant" means a person to whom a certificate of registration has been issued;

(18) "Registration certificate" means a registration certificate issued pursuant to § 45-13-126;

(19) "Registration statement" means a registration statement filed pursuant to Section 45-13-103; and,

(20) "Residential real property" means improved real property used or occupied or intended to be used or occupied for residential purposes by the owner.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 2. Tennessee Code Annotated, Section 45-13-103(a), is amended by deleting the language preceding the semicolon and substituting instead the following language:

No person shall act as a mortgage lender, mortgage loan broker, mortgage loan servicer, or mortgage loan originator in this state without first complying with the applicable licensing or registration requirements under this chapter

SECTION 3. Tennessee Code Annotated, Section 45-13-106, is amended by deleting subsections (c) and (d) in their entirety.

SECTION 4. Tennessee Code Annotated, Section 45-13-108, is amended by deleting the section in its entirety and substituting instead the following language:

Section 45-13-108. Suspension or revocation of licenses or registrations.

(a) The commissioner may suspend or revoke any license or registration issued hereunder if the commissioner, after notice and opportunity for hearing, finds that the licensee or registrant is guilty of the following:

(1) Failure to comply with any provision of this chapter or any administrative rule issued pursuant thereto;

(2) Conduct of a manner which would warrant the denial of an application for a license or registration;

(3) Making a false statement in any application or report filed with the commissioner;

(4) Refusing to permit the commissioner to make any examination authorized by this chapter;

(5) Has been convicted of or pled guilty to or pled nolo contendere to any crime reasonably related to the qualifications, functions, or duties of a person engaged in business under this chapter;

(6) Has been held liable in any civil action by final judgment, or any administrative judgment by any public agency reasonably related to the qualifications, functions, or duties of a person engaged in business under this chapter;

(7) Making any false written promise which is intended to and which is likely to influence, persuade, or induce a person to enter into a mortgage loan, or pursuing a course of misrepresentation or false promises through agents, employees, advertising, or otherwise;

(8) Substantial misrepresentation, circumvention, or concealment of any of the material particulars or the nature thereof, regarding a mortgage transaction to which such person is a party;

(9) Failure to disburse funds in accordance with a written agreement;

(10) Failure to account for or deliver to any person any personal property obtained in connection with a mortgage loan, such as money, funds, deposits, checks, drafts, mortgages or other documents or things of value that have come into the possession of the licensee or registrant and that are not the property of the licensee or registrant or that the licensee or registrant is not by law or at equity entitled to retain;

(11) Obtaining any agreement or instrument in which blanks are left to be filled in after execution;

(12) Accepting any fees at closing which were not disclosed;

(13) Engaging in a pattern of consistently and materially underestimating the closing costs;

(14) Delaying closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower; or

(15) Attempting to intimidate a real estate appraiser or influence an appraiser's report relating to market conditions or determination of value.

(b) If the reason for suspension or revocation of a license or certificate of registration at any one (1) location is of general application to all locations operated by a licensee or registrant, the commissioner may revoke or suspend all licenses or certificates of registration issued to the licensee or registrant.

(c) When a licensee or registrant is accused of any act, omission, or misconduct that would subject the licensee or registrant to disciplinary action, the licensee or registrant, with the consent and approval of the commissioner, may surrender the license or certificate of registration and all the rights and privileges pertaining to it for a period of time established by the commissioner. A person who surrenders a license or certificate of registration shall not be eligible for or submit any application for a license or registration under this chapter, for such period of time as established by the commissioner.

(d) A licensee or registrant is subject to disciplinary action, if any officer, director, person owning twenty-five percent (25%) or more of the licensee or registrant's outstanding capital, member, partner, managing principal, branch manager, mortgage loan originator, any employee or any other person who acts on behalf of the licensee or registrant violates any provision of subsection (a) of this section.

(e) No license or certificate of registration shall be assignable.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

SECTION 5. Tennessee Code Annotated, Section 45-13-112(a), is amended by deleting the words ", after written notice of not less than fourteen (14) days, and for cause shown, at any time and as often as the commissioner may determine,".

SECTION 6. Tennessee Code Annotated, Section 45-13-112(b), is amended by deleting the first sentence in its entirety and substituting instead the following language:

The licensee or registrant shall pay to the commissioner the reasonable and actual expenses of the investigation and examination.

SECTION 7. Tennessee Code Annotated, Section 45-13-116, is amended by deleting subsections (a) and (b) and substituting instead the following language:

Section 45-13-116. Violations – Cease and Desist Orders – Penalties.

If, after notice and opportunity for a hearing, the commissioner finds that a person has violated this chapter, or administrative rule issued pursuant thereto, the commissioner may take any or all of the following actions:

(1) Order the person to cease and desist violating this chapter or any administrative rule issued pursuant thereto.

(2) Require the refund of any interest, fees, or charges collected by such person in violation of this chapter or any administrative rule issued pursuant thereto.

(3) Order the person to pay the commissioner a civil money penalty of not more than ten thousand dollars (\$10,000) for each violation of this chapter or administrative rule issued pursuant thereto.

SECTION 8. Tennessee Code Annotated, Section 45-13-121, is amended by deleting the words "of employment, management or control of any licensee or registrant," from subsection (a) and substituting instead the words "of management, control, employment or providing services for any licensee or registrant or other person subject to the commissioner's jurisdiction," and by inserting the language "or licensee" in subsection (b) following the word "registrant" wherever it occurs.

SECTION 9. Tennessee Code Annotated, Section 45-13-122, is amended by inserting the language "or licensee" following the word "registrant" wherever it occurs.

SECTION 10. Tennessee Code Annotated, Title 45, Chapter 13, is amended by adding the following new sections:

Section 45-13-124. Consent Orders.

(a) The commissioner may enter into consent orders at any time with any person to resolve any matter arising under this chapter. A consent order shall be signed by the person to whom it is issued, or a duly authorized representative, and shall indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that any provision of this chapter, or any rule, regulation or order promulgated or

issued hereunder has been violated, nor need it constitute a finding by the commissioner that such person has violated any provision of this chapter or any rule, regulation or order promulgated or issued under this chapter.

(b) Notwithstanding the issuance of a consent order, the commissioner may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order.

(c) In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this chapter without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken which is filed with the commissioner within twenty (20) days after receipt of the notice to the commissioner's emergency action.

Section 45-13-125. Managing principals and branch managers.

(a) Each mortgage lender or mortgage loan broker licensed or registered under this chapter shall have a managing principal who operates the business under that person's full charge, control, and supervision. Each principal and branch office of a mortgage lender or mortgage loan broker shall have a manager. The mortgage lender or mortgage loan broker shall have the responsibility of ensuring that the manager has sufficient experience in the mortgage lending industry to operate the business of the mortgage lender or mortgage loan broker lawfully. The managing principal for a mortgage lender's or mortgage loan broker's business may also serve as the branch manager of one of the mortgage lender's or mortgage loan broker's branch offices. Any individual mortgage lender or mortgage loan broker who operates a sole proprietorship shall be considered a managing principal for purposes of this chapter.

(b) Each mortgage lender or mortgage loan broker shall file a form as prescribed by the commissioner indicating the business' designation of managing principal and branch manager for each branch and each individual's acceptance of the responsibility.

(c) Each mortgage lender or mortgage loan broker shall notify the commissioner in writing within fourteen (14) business days of any change in its managing principal or branch manager designated for each branch.

Section 45-13-126. Registration of mortgage loan originators – Posting – Termination of Services.

(a) Before an individual may provide services as a mortgage loan originator for a licensee or registrant, that individual shall be registered with the commissioner in affiliation with that licensee or registrant. A mortgage loan originator shall not be registered in affiliation with more than one licensee or registrant at the same time.

(b) To register a mortgage loan originator, the licensee or registrant shall submit to the commissioner a completed registration form. The

registration form shall be in writing and under oath, in a form prescribed by the commissioner. The registration form shall contain any information the commissioner deems necessary, including the following:

(1) The name of the licensee or registrant for whom the mortgage loan originator will provide services as a mortgage loan originator;

(2) The mortgage loan originator's name, birth date, social security number, and address; and

(3) The location where the mortgage loan originator shall engage in mortgage business activities.

(c) Each registration form shall be accompanied by a registration fee prescribed by the commissioner, which shall constitute the registration fee for the first year of registration or part thereof;

(d) Upon receipt of a properly completed registration form and the requisite fee, the commissioner shall issue to the licensee or registrant for whom the mortgage loan originator shall be providing services a mortgage loan originator registration certificate. The registration certificate shall contain the name of the mortgage loan originator, the name of the licensee or registrant for whom the mortgage loan originator shall be providing services and the address of the principal office of such licensee or registrant. The licensee or registrant for whom the mortgage loan originator is providing services shall either:

(1) Display the registration certificate at the office or work station of the mortgage loan originator; or

(2) Maintain the registration certificates in a binder or similar device; provided that the licensee or registrant posts a sign at the office or workstation of the mortgage loan originator indicating that registration certificates are available for public inspection upon request.

(e) The registration certificate of each mortgage loan originator shall expire at the same time as the licensee's license or registrant's certificate of registration expires unless the mortgage loan originator's registration is renewed. In order to renew the registration certificate of each mortgage loan originator, the licensee or registrant for whom the mortgage loan originator provides services, pursuant to the time period set forth in § 45-13-105(c)(2), shall pay the renewal fee prescribed by the commissioner for each mortgage loan originator and submit such forms as requested by the commissioner.

(f) If the services of a mortgage loan originator are terminated, the licensee or registrant for whom such services have been provided shall return the original registration certificate within fourteen (14) business days after the cessation of the provision of such services. It is not necessary for a licensee or registrant to return the registration certificate of a mortgage loan originator

who changes from one branch office to another branch office of the licensee or registrant; provided, the licensee or registrant notifies the commissioner in writing of the change.

(g) A mortgage loan originator who ceases providing services for the licensee or registrant named in the registration certificate may not perform services as a mortgage loan originator for another licensee or registrant unless a new registration certificate is obtained under this section.

(h) The commissioner may refuse to register any mortgage loan originator who changes affiliation two or more times during a calendar year, if the commissioner determines that the change is for the purpose of evading the licensing or registration requirements of this chapter.

(i) The commissioner shall keep a current roster showing the names of all mortgage loan originators and the licensee or registrant for whom the mortgage loan originator provides services.

(j) A licensee or registrant who possessed a license or certificate of registration under this chapter before January 1, 2005, and who retained a mortgage loan originator before January 1, 2005, may continue to retain the services of such mortgage loan originator until the commissioner has acted upon the registration form submitted by the licensee or registrant on behalf of the mortgage loan originator, provided the licensee or registrant submits the registration form in accordance with the provisions of this section within three (3) months after January 1, 2005.

Section 45-13-127. Relationship between mortgage loan originator and a licensee or registrant.

(a) A licensee or registrant for whom a mortgage loan originator provides services is responsible for, and shall supervise the acts of, such mortgage loan originator.

(b) A licensee or registrant shall ensure that each application for a mortgage loan contain the name and license number or registration number of the licensee or registrant as well as the name, signature, and registration number of the mortgage loan originator who provided services with respect to the mortgage loan.

(c) If the commissioner suspends or revokes a licensee's license or a registrant's certificate of registration, a mortgage loan originator shall not act on behalf of that licensee or registrant during the period of suspension or revocation.

Section 45-13-128. Lost licenses, certificates of registration or mortgage loan originator registration certificates -- substitutions.

In the event that a license, certificate of registration or mortgage loan originator registration certificate issued under this chapter is lost or destroyed, the person to whom the license or certificate of registration was issued may, upon payment of a fee prescribed by the commissioner, obtain a substitute license or

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

certificate of registration, upon furnishing proof satisfactory to the commissioner that the license or certificate of registration has become lost or destroyed.

SECTION 11. Tennessee Code Annotated, Title 45, Chapter 5, Part 2, is amended by adding the following new section:

Section 45-5-206. Lost certificates of registration – substitutions.

In the event that a certificate of registration issued under this chapter is lost or destroyed, the person to whom the certificate of registration was issued may, upon payment of a fee prescribed by the commissioner, obtain a substitute certificate of registration, upon furnishing proof satisfactory to the commissioner that the certificate of registration has become lost or destroyed.

SECTION 12. Tennessee Code Annotated, Section 45-5-501(c), is amended by deleting the second, third and fourth sentences.

SECTION 13. Tennessee Code Annotated, Section 45-5-502, is amended by deleting the first sentence in its entirety and substituting instead the following language:

Each registrant shall pay the reasonable and actual expenses for any inspection or compliance examination conducted under this chapter.

SECTION 14. Tennessee Code Annotated, Section 45-5-504, is amended by deleting subsections (a) through (e) and substituting instead the following language:

Section 45-5-504. Violations – Cease and Desist Orders – Penalties.

If, after notice and opportunity for a hearing, the commissioner finds that a person has violated this chapter, or any administrative rule issued pursuant thereto, the commissioner may take any or all of the following actions:

(1) Order the person to cease and desist violating this chapter or any administrative rule issued pursuant thereto.

(2) Require the refund of any interest, fees, or charges collected by such person in violation of this chapter or any administrative rule issued pursuant thereto.

(3) Order the person to pay the commissioner a civil money penalty of not more than ten thousand dollars (\$10,000) for each violation of this chapter or administrative rule issued pursuant thereto.

SECTION 15. Tennessee Code Annotated, Section 45-5-506, is amended by deleting the words "of employment, management or control of any registrant" from subsection (a) and substituting instead the words "of management, control, employment or providing services for any registrant or other person subject to the commissioner's jurisdiction,".

SECTION 16. Tennessee Code Annotated, Title 45, Chapter 5, Part 5, is amended by adding the following new section:

Section 45-5-509. Consent Orders.

(a) The commissioner may enter into consent orders at any time with any person to resolve any matter arising under this chapter. A consent order shall be signed by the person to whom it is issued, or a duly authorized representative, and shall indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that any provision of this chapter, or any rule, regulation or order promulgated or issued hereunder has been violated, nor need it constitute a finding by the commissioner that such person has violated any provision of this chapter or any rule, regulation or order promulgated or issued under this chapter.

(b) Notwithstanding the issuance of a consent order, the commissioner may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order.

(c) In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this chapter without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken which is filed with the commissioner within twenty (20) days after receipt of the notice to the commissioner's emergency action.

SECTION 17. Tennessee Code Annotated, Section 45-1-105 (b)(2), is amended by deleting the language in its entirety and substituting instead the following language:

The deputy commissioner and assistant commissioners shall be persons of good character and have a minimum of three (3) years experience in the theory and practice of banking, or in the function and operation of credit unions in the case of the assistant commissioner for the credit union division, or in the function and operation of a financial institution in the case of the assistant commissioner for the compliance division, all of which must have been in a full-time management or regulatory capacity. For the purpose of this subsection, the term "financial institution" shall mean any institution subject to the commissioner's jurisdiction and shall include similar entities regulated by any other state or federal regulatory agency.

SECTION 18. Severability. If any provision of this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable.

SECTION 19. Sections 3, 5, 7, 8, 9, 12, 14, 15, 17 and 18 of this act shall take effect immediately upon becoming a law, the public welfare requiring it. For the purpose of promulgating rules and regulations, this act shall take effect immediately upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2005, the public welfare requiring it.

Senator Herron moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3455**, which motion prevailed by the following vote:

Ayes 31
Noes 0

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2300 -- Child Custody and Support -- Requires employers to notify department and clerk if the employer files bankruptcy or ceases to operate as business; requires that income assignment not be affected by bankruptcy or cessation of business. Amends TCA Title 36, Chapter 5.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-5-501, is amended by deleting the fourth sentence of subsection (g) in its entirety; by designating the remaining language of subsection (g) as subdivision (1); and by adding the following language as a new subdivision to be designated as indicated:

(2) The employer, person, corporation or institution shall provide notice to the clerk, the department, or the entity in the other state to which the withheld income was to be sent of termination of employment or income payments to the employee. If the employee was terminated in a manner that qualifies the employee for unemployment compensation benefits, the employer, person, corporation or institution shall provide notice to the division of employment security of the Department of Labor and Workforce Development. Any employer, person, corporation or institution that files for bankruptcy or ceases to operate as a business shall provide notice to the clerk or the department of the bankruptcy or cessation of business upon filing bankruptcy or at least ten (10) days prior to ceasing to operate as a business. Any notice provided pursuant to this subsection shall include the names of all the affected employees subject to an income assignment, the last known address of each of those employees, and the name and address of the new employer or source of income of each of those employees, if known.

SECTION 2. Tennessee Code Annotated, Section 36-5-501, is amended by deleting the third sentence of subsection (i) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 36-5-501, is amended by adding the following as two new subsections to be designated as indicated:

(p) If any employer, person, corporation or institution fails or refuses to comply with the requirements of this section, then that employer, person, corporation or institution is liable for any amounts up to the accumulated amount which should have been withheld. In addition, that employer, person, corporation or institution shall be subject to a civil penalty to be assessed and distributed pursuant to the requirements of this subsection.

(1) Upon the first failure to comply with an order of income assignment, that employer, person, corporation or institution shall be subject to a civil penalty of one hundred dollars (\$100) per obligor for whom an order of income assignment was received, two hundred dollars (\$200) per obligor for the second failure to comply and five hundred dollars (\$500) per obligor for each occurrence thereafter.

(2) The civil penalty, when assessed and collected by the Department of Human Services, shall be pro-rated among the children for whom the income assignment order was issued and with which the employer, person, corporation or institution failed to comply. If there are multiple income assignments for an obligor, the pro-rated amounts of the civil penalty shall be distributed to the children in the proportion that each order for which the income assignment was issued is to the total amount of all income assignments with which the employer, person, corporation or institution failed to comply.

(3) The civil penalty amount received by the children shall not reduce in any manner the amount of support owed by the obligor parent, but shall be received in addition to all ordered child support.

(q)(1) Penalties authorized by this section shall be assessed by the Commissioner of Human Services after written notice to the employer, person, corporation or institution. The notice shall provide fifteen (15) days from the mailing date of the notice for the employer, person, corporation or institution to file a written request to the department for appeal of the civil penalty. If an appeal is timely filed with the department, the department shall set an administrative hearing on the issue of the assessment pursuant to the provisions of the Administrative Procedures Act, compiled in Title 4, Chapter 5, relative to contested case hearings. Failure to timely appeal the assessment of the civil penalty shall be final and conclusive of the correctness of the assessment.

(2) Any amount found owing shall be due and payable not later than fifteen (15) days after the mailing date of the determination. Failure to pay an assessment shall result in a lien against the real or personal property of the employer, person, corporation or institution in favor of the department. If an assessment is not paid when it becomes final, the department may collect the amount of the civil penalty by any available administrative enforcement procedures or by court action. The non-prevailing party shall be liable for all court costs and litigation taxes of the proceedings and shall be liable to the department for the cost of any private, contract or government attorney representing the state and for the time of any of its Title IV-D or contractor staff utilized in litigating the assessment.

(3) Any appeal of the action of the commissioner pursuant to this section shall be made in conformity with § 36-5-1003.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.

Senator McNally moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2300**, which motion prevailed by the following vote:

Ayes 27
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 3

AMEND by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-5-501, is amended by deleting the fifth sentence of subsection (g) in its entirety; by designating the remaining language of subsection (g) as subdivision (1); and by adding the following language as a new subdivision to be designated as indicated:

(2) The employer, person, corporation or institution shall provide notice to the clerk, the department, or the entity in the other state to which the withheld income was to be sent, and the division of employment security of the Department of Labor and Workforce Development, of termination of employment or income payments to the employee. Any employer, person, corporation or institution that files for bankruptcy or ceases to operate as a business shall provide notice to the clerk or the department of the bankruptcy or cessation of business upon filing bankruptcy or at least ten (10) days prior to ceasing to operate as a business. Any notice provided pursuant to this subsection shall include the names of all the affected employees subject to an income assignment, the last known address of each of those employees, and the name and address of the new employer or source of income of each of those employees, if known.

SECTION 2. Tennessee Code Annotated, Section 36-5-501, is amended by deleting the third sentence of subsection (i) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 36-5-501, is amended by adding the following as two new subsections to be designated as indicated:

(p) If any employer, person, corporation or institution fails or refuses to comply with the requirements of this section, then that employer, person, corporation or institution is liable for any amounts up to the accumulated amount which should have been withheld. In addition, that employer, person, corporation or institution may be subject to a civil penalty to be assessed and distributed pursuant to the requirements of this subsection.

(1) Upon the first failure to comply with an order of income assignment, that employer, person, corporation or institution may be subject to a civil

penalty of one hundred dollars (\$100) per obligor for whom an order of income assignment was received, two hundred dollars (\$200) per obligor for the second failure to comply and five hundred dollars (\$500) per obligor for each occurrence thereafter.

(2) The civil penalty, when assessed and collected by the Department of Human Services, shall be pro-rated among the children for whom the income assignment order was issued and with which the employer, person, corporation or institution failed to comply. If there are multiple income assignments for an obligor, the pro-rated amounts of the civil penalty shall be distributed to the children in the proportion that each order for which the income assignment was issued is to the total amount of all income assignments with which the employer, person, corporation or institution failed to comply.

(3) The civil penalty amount received by the children shall not reduce in any manner the amount of support owed by the obligor parent, but shall be received in addition to all ordered child support.

(q)(1) Penalties authorized by this section shall be assessed by the Commissioner of Human Services after written notice to the employer, person, corporation or institution. The notice shall provide fifteen (15) days from the mailing date of the notice for the employer, person, corporation or institution to file a written request to the department for appeal of the civil penalty. If an appeal is timely filed with the department, the department shall set an administrative hearing on the issue of the assessment pursuant to the provisions of the Administrative Procedures Act, compiled in Title 4, Chapter 5, relative to contested case hearings. Failure to timely appeal the assessment of the civil penalty shall be final and conclusive of the correctness of the assessment.

(2) Any amount found owing shall be due and payable not later than fifteen (15) days after the mailing date of the determination. Failure to pay an assessment shall result in a lien against the real or personal property of the employer, person, corporation or institution in favor of the department. If an assessment is not paid when it becomes final, the department may collect the amount of the civil penalty by any available administrative enforcement procedures or by court action. The non-prevailing party shall be liable for all court costs and litigation taxes of the proceedings and shall be liable to the department for the cost of any private, contract or government attorney representing the state and for the time of any of its Title IV-D or contractor staff utilized in litigating the assessment.

(3) Any appeal of the action of the commissioner pursuant to this section shall be made in conformity with § 36-5-1003.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.

Senator McNally moved that the Senate concur in House Amendment No. 3 to **Senate Bill No. 2300**, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

STANDING COMMITTEE REPORT

TRANSPORTATION

MR. SPEAKER: Your Committee on Transportation begs leave to report that we have carefully considered and recommend for passage: House Joint Resolutions Nos. 939, 997, 1002, 1011, 1076 and 1079.

WILLIAMS, Chairperson
May 10, 2004

The Speaker announced that he had referred House Joint Resolutions Nos. 939, 997, 1002, 1011, 1076 and 1079 to Committee on Calendar.

MOTION

On motion of Senators Cooper and Burks, their names were added as sponsors of **Senate Bill No. 2143**.

On motion of Senator Graves, her name was added as sponsor of **House Joint Resolutions Nos. 1138 and 1139**.

On motion of Senator McNally, his name was added as sponsor of **House Joint Resolution No. 1079**.

On motion of Senator Beavers, her name was added as sponsor of **House Joint Resolutions Nos. 1127, 1129, 1132, 1133, 1138 and 1139**.

On motion of Senator Burks, her name was added as sponsor of **Senate Resolution No. 158 and Senate Bill No. 1152**.

On motion of Senator Kurita, her name was added as sponsor of **Senate Bills Nos. 2364 and 2979**.

On motion of Senator Haynes, his name was added as sponsor of **House Joint Resolutions Nos. 1183, 1184 and 1190**.

On motion of Senator Harper, her name was added as sponsor of **House Joint Resolutions Nos. 1183 and 1184**.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

On motion of Senator Henry, his name was added as sponsor of **House Joint Resolution No. 1184 and Senate Bill No. 2373.**

On motion of Senator Kyle, his name was added as sponsor of **Senate Bills Nos. 3170 and 3506; and Senate Joint Resolution No. 975.**

On motion of Senator Herron, his name was added as sponsor of **Senate Bills Nos. 2285, 2581, 2992, 3274, 3380 and 3430.**

On motion of Senator Williams, his name was added as sponsor of **House Joint Resolutions Nos. 1166, 1167, 1168, 1169, 1170 and 1171.**

On motion of Senators Crutchfield and Fowler, their names were added as sponsors of **House Joint Resolution No. 1165.**

On motion of Senator Fowler, his name was added as sponsor of **Senate Bill No. 2266.**

On motion of Senator Trail, his name was added as sponsor of **Senate Bill No. 2364.**

On motion of Senator Kilby, his name was added as sponsor of **Senate Bill No. 2452.**

On motion of Senator Cooper, his name was added as sponsor of **Senate Bill No. 2090.**

On motion, all Senators' names were added as sponsors of **House Joint Resolution No. 1159 and Senate Joint Resolution No. 1114.**

On motion of Senator Dixon, his name was added as sponsor of **Senate Bills Nos. 2479, 2581, 2801, 2992 and 3170; Senate Joint Resolutions Nos. 975 and 996; and House Joint Resolutions Nos. 1185, 1186, 1187, 1188 and 1189.**

On motion of Senator Cohen, his name was added as prime sponsor of **Senate Bill No. 3094.**

ENGROSSED BILLS

May 10, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 1083, 2051, 2240, 2266, 2279, 2285, 2373, 2419, 2423, 2479, 2581, 2630, 2801, 2951, 2992, 3112, 3170, 3336 and 3506; and Senate Joint Resolutions Nos. 975, 996, 1141 and 1149; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 10, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 1144, 1145 and 1146; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

ENGROSSED BILLS

May 10, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolution No. 1150, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 10, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 2077, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 10, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 3430, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 10, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 3454, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 11, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 1066, 1067, 1068, 1069, 1070, 1071, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1117, 1118, 1119 and 1120; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 821 and 2844, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 110, 2688, 2700, 2741, 3564, 3605, 3608 and 3249; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1433 and 2832, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1202, 2644, 2819, 2854, 3423, 3456, 3511 and 3600; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2285 and 3132, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3479, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 861 and 1197, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215 and 1216; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 11, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1226, 1227, 1228, 1229, 1230, 1231, 1233, 1234, 1235, 1236, 1237, 1238 and 1239; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 11, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 818. The House had its first reading on May 5, 2004, its second reading on May 6, 2004, and its third reading on May 10, 2004, and was adopted on May 10, 2004.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 135 and 2077, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1884 and 2371, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2122 and 2474, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2148, 2477, 2556 and 3177; substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2205, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 991, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1043, 1045, 1046, 1047, 1048, 1049, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1063, 1064, 1065 and 1140; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 1144, 1146 and 1150; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

May 10, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 243, 823, 1539, 1600, 2119, 2162, 2207, 2252, 2263, 2314, 2325, 2409, 2524, 2616, 2681, 2832, 2931, 3008, 3139, 3215, 3228, 3235, 3257, 3391, 3466 and 3502; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENROLLED BILLS

May 11, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolution No. 213; and Senate Joint Resolutions Nos. 991, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1043, 1045, 1046, 1047, 1048, 1049, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1063, 1064, 1065, 1140, 1144, 1146 and 1150; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENROLLED BILLS

May 11, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 135, 1884, 2077, 2122, 2148, 2205, 2300, 2346, 2371, 2474, 2477, 2556, 2667, 3120, 3177, 3258, 3359, 3371 and 3455; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1126, 1127, 1128, 1129, 1130, 1131, 1132 and 1133; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1004, 2063, 2162, 2366, 2515, 2539, 2618, 2635, 2656, 2666, 2783, 2830, 2875, 2880, 2953, 2957, 3062, 3131, 3229, 3240, 3263, 3289, 3391, 3397, 3463, 3484, 3513, 3523, 3593, 3594, 3595 and 3596; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 10, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3264, for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 11, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1135, 1138, 1139, 1140, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1185, 1186, 1187, 1188, 1189, 1190, 1192, 1193, 1194, 1195, 1196, 1199, 1200, 1201, 1202, 1204, 1205 and 1206; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

May 10, 2004

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 1126, 1127, 1128, 1129, 1130, 1131, 1132 and 1133.

SIGNED

May 10, 2004

The Speaker announced that he had signed the following: Senate Bills Nos. 243, 823, 1539, 1600, 2119, 2162, 2207, 2252, 2263, 2314, 2325, 2409, 2524, 2616, 2681, 2832, 2931, 3008, 3139, 3215, 3228, 3235, 3257, 3391, 3466 and 3502.

SIGNED

May 11, 2004

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 1135, 1138, 1139, 1140, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153,

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1185, 1186, 1187, 1188, 1189, 1190, 1192, 1193, 1194, 1195, 1196, 1199, 1200, 1201, 1202, 1204, 1205 and 1206.

SIGNED

May 11, 2004

The Speaker announced that he had signed the following: Senate Resolution No. 213; and Senate Joint Resolutions Nos. 991, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1043, 1045, 1046, 1047, 1048, 1049, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1063, 1064, 1065, 1140, 1144, 1146 and 1150.

MESSAGE FROM THE HOUSE

May 11, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 243, 823, 1539, 1600, 2119, 2162, 2207, 2252, 2263, 2314, 2325, 2409, 2524, 2616, 2681, 2832, 2931, 3008, 3139, 3215, 3228, 3235, 3257, 3391, 3466 and 3502; and Senate Joint Resolutions Nos. 991, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1043, 1045, 1046, 1047, 1048, 1049, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1063, 1064, 1065, 1140, 1144, 1146 and 1150; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE GOVERNOR

May 10, 2004

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 23, 1306, 2097, 2115, 2139, 2153, 2280, 2330, 2344, 2407, 2446, 2560, 2673, 2713, 2745, 3029, 3046, 3273, 3340 and 3400; and Senate Joint Resolutions Nos. 1026, 1027, 1028, 1029, 1030, 1042, 1044, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108 and 1116; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

May 10, 2004

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bill No. 875, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

MESSAGE FROM THE GOVERNOR

May 11, 2004

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolution No. 746, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #1**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 13, 2004: House Joint Resolution No. 1207; Senate Joint Resolutions Nos. 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1142 and 1143; and Senate Resolution No. 217.

This the 11th day of May, 2004.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 13, 2004: House Joint Resolutions Nos. 939, 997, 1002, 1011, 1043, 1076 and 1079.

This the 11th day of May, 2004.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
LOCAL BILL
CONSENT CALENDAR**

Pursuant to Rule 26, the following bills have been set on the Consent Calendar for Thursday, May 13, 2004: Senate Bills Nos. 3471, 3507, 3509, 3511 and 3521.

REPORT OF COMMITTEE ON CALENDAR #1

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 13, 2004: House Joint Resolution No. 990; Senate Joint Resolution No. 800; Senate Bills Nos. 2213, 2278, 2307, 2622, 2725, 3015, 2152, 2391, 2602, 3045, 3289, 3300, 3337 and 3394; House Bills Nos. 1249, 3499, 3524 and 3544; House Joint Resolution No. 1184; Senate Joint Resolution No. 1013; and Senate Resolution No. 158.

This the 11th day of May, 2004.
CROWE, Chairperson.

MONDAY, MAY 10, 2004 -- 88TH LEGISLATIVE DAY

REPORT OF COMMITTEE ON CALENDAR #2

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 13, 2004: The report from the Secretary of State on Qualified Annual Events pursuant to Tennessee Charitable Gaming Implementation Law and Article XI, Section 5 of the Constitution of Tennessee.

This the 11th day of May, 2004.
CROWE, Chairperson.

**SENATE
MESSAGE CALENDAR**

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Thursday, May 13, 2004: Senate Bills Nos. 348, 2080 and 3226.

ADJOURNMENT

Senator Crutchfield moved the Senate adjourn until 9:00 a.m., Thursday, May 13, 2004, which motion prevailed.