



## Final Report on the 106th General Assembly

### Budget highlights 2009 legislative session

*Significant laws also passed this year on charter schools, job growth, and child protection*

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(NASHVILLE, TN), July 1, 2009 -- The 106th Tennessee General Assembly adjourned on June 18, 2009 to become a part of Tennessee history after passage of a \$28.9 billion budget in one of the toughest financial years in the state's recent history. By the end of the legislative session, the state had suffered a \$1.2 billion loss in revenue and hit a 25-year high unemployment rate of 10.7 percent. These were two of many factors making this year's budget the most significant challenge of the 2009 legislative session, despite the influx of federal stimulus funds coming into Tennessee as a result of the American Recovery and Reinvestment Act.

The General Assembly also passed a number of other significant bills before gaveling the 2009 session to a close, including a major charter schools bill, a revision of Tennessee's judicial selection process, several job growth initiatives, a resolution giving voters a say in commonsense protections on abortion, legislation to restore Tennessee's Second Amendment rights, numerous bills strengthening Tennessee's child abuse laws and new laws cracking down on violent crime, to name a few.

Following is an alphabetical report on the issues acted upon during the 2009 legislative year:

### **Abortion**

**Abortion Resolution** – The Senate voted 24 to 8 and the House voted 77 to 21 this year to give Tennesseans the opportunity to restore their voice in determining what state law should be regarding commonsense protections for abortions. The resolution had passed the Senate for the last several years, but had been bottled up in a House Subcommittee until Republicans gained the majority. The measure addresses a State Supreme Court decision in 2000 that struck down provisions in Tennessee law allowing women to receive “informed consent” information about the surgery and to wait 48 hours before

they receive an abortion. The court also ruled against a state requirement that all abortions after the first trimester be performed in a hospital. That ruling made Tennessee more liberal than the U.S. Supreme Court required in *Roe v. Wade* and made the right to abortion a “fundamental right” in Tennessee.

The resolution would allow citizens to amend Tennessee's Constitution to say that the right to an abortion is only protected under the U.S. Constitution as interpreted by the U.S. Supreme Court. It would give the people the right, through their elected state representatives and senators, to enact, amend, or repeal statutes regarding abortion, including circumstances of pregnancy resulting from rape, incest or life of the mother. The practical effect of the legislation would be to bring Tennessee back into a position of neutrality so the people’s elected representatives can decide within the bounds of federal decisions what protections can be put into place.

The resolution must be approved again by a two-thirds majority in the next General Assembly before citizens could expect to see the resolution on the ballot in November 2014. (*STATUS: [SJR 127](#) / Passed and signed / Sponsors: Black, Gresham, Southerland, Crowe, Overbey, Faulk, Woodson, Yager, Stanley, Burchett, Beavers, Ketron, Tracy, Ramsey, Johnson, Norris, McNally, Watson, Henry, Bunch*)

***Funds / Planned Parenthood*** – Legislation was also approved this year to ensure that family planning funds go to public women’s health service providers before private applicants are considered. The bill comes after a video was released showing violation of state law by Planned Parenthood of Memphis, a private provider that receives public funds for family planning services. The video showed a girl claiming to be 14 years old being advised by a Planned Parenthood employee to lie to court authorities regarding the alleged father of her child who the youth said was 31.

Approximately \$1.1 million in Title 10 funds are provided to Planned Parenthood for women’s health-related services like family planning, birth control, and exams. Although current law bans the use of the money for abortion, the Title 10 funds supplement the organization’s operations, with Planned Parenthood being named in state law as a beneficiary, even though it is a private provider. The legislation, which takes the name of Planned Parenthood out of Tennessee law, says you must exhaust other avenues in the public sector, like health departments, before moving to private providers for dispensing family planning money. It is believed this action could bolster government-related health services like the public health departments or government-associated medical clinics that provide family planning services. (*STATUS: [SB 470](#) / HB 1756 / transmitted to gov. 6/22 / DOE: January 1, 2010) Sponsors: Johnson, Gresham, Beavers, Stanley and Norris*)

## **Animals / Agriculture / Property Rights**

***Farmers / Limited Liability*** – On farm legislation approved this year, the General Assembly voted to give limited immunity to farmers who participate in “agritourism.” The legislation applies limited liability immunity for events like a “pumpkin patch” or

“corn mazing” that farmers may want to have on their property. The measure requires the farmer to post and maintain a sign that warns persons of this bill's limitation on liability. (STATUS: [SB 2164](#) / [HB 1931](#) / signed by gov 6/23 / DOE: July 1, 2009) Sponsor: Tracy, Bunch, Burks, Gresham, Overbey, Ford, O., Crowe, Faulk, Southerland, Black

**Raw milk** – Another bill that passed this year impacting farmers is one that allows owners’ use of raw milk for personal consumption. (STATUS: [SB 1114](#), [HB 720](#) / [PC 285](#) / DOE: UBL) Sponsor: Faulk, Burks

**Trespassing** – Two bills dealing with landowners and their responsibility when trespassers come onto their property were approved this legislative session. One bill amends Tennessee’s criminal trespass law to shift the burden from individual property owners to the alleged trespassers. Before, Tennessee law required extensive posting and signage, putting the burden on the landowner. This bill shifts that burden to the individual who will be required to know if he/she has permission to be on the land. Farmland can prove to be especially difficult to post, and this bill will protect farmers to ensure that trespassers are held accountable for their actions. (STATUS: [SB 679](#) / [HB 714](#) / signed by gov 6/25 / DOE: July 1, 2009) sponsor: Woodson, Gresham, Burks, Berke, Stewart

The second bill addresses problems experienced by landowners and farmers where ATV riders or others have trespassed on private property. Before, if a trespasser was harmed by a dangerous condition created by a force of nature, like a ditch produced by heavy rainfall, the landowner could be responsible regardless of whether or not the person harmed was invited. This legislation seeks to remedy that action by protecting landowners when the condition is one created by natural forces. (STATUS: [SB 2102](#) / [HB 2109](#) / transmitted to gov 6/30 / DOE: July 1, 2009) sponsor: Watson, Burks

## Budget

With less than two weeks before the new fiscal year began, state lawmakers passed a \$28.9 billion budget for 2009-2010, excluding bonds. The budget initiates the first step in reducing over \$1.2 billion in state funding from the budget by identifying over \$750 million in reductions, but uses one-time funds to minimize the first year reduction to only \$240 million. The funds were available due to the American Recovery and Reinvestment Act (federal stimulus funds) which will send over \$4.5 billion into Tennessee over a two-year period that began in February.

Although the stimulus money helped to soften the blow of cuts by boosting spending in targeted state programs temporarily, some funds also came with mandates for change in Tennessee law in order to access the federal dollars. About \$1 billion of the money is being used to buffer the drastic drop in state revenues. Most of the money will simply pass through the state as it is earmarked for increasing aid to such programs as food stamps, public housing, energy initiatives, education and road and bridge infrastructure.

Senate Republicans worked diligently to help Tennessee chart a better course to balance the budget on a recurring basis after the stimulus money dries up in 2011. Before

adjourning, lawmakers amended the governor's budget to pass one that better plans for difficult economic times, borrows less, has more protection for the Rainy Day (savings) Fund and is closer to balancing recurring and nonrecurring expenditures.

***Moving towards a fiscally sound budget*** -- Senate Republicans also worked to reduce the overall budget by \$40 million and won passage of several other fiscally sound provisions adopted in the final version of the bill. This includes calling for the impoundment of \$55 million in case the state falls short of estimates at the close of the 2008-2009 budget year. The provision calls for the governor to identify reductions if revenues fall short and to utilize those impounded funds so the state can close the books without having to dig deeper into the Rainy Day Fund. The Rainy Day Fund will be essential next year after the federal stimulus money dries up and if economic conditions worsen.

***Bonds*** -- On bonds, the governor had asked the legislature to authorize \$350 million in bonds for bridge work and repair this year. Senate Republicans won approval of a much more cautious approach to the bond authorization as reflected in a provision to incur only one-fourth of those bonds this year. The portion, which is \$87.5 million, would only occur if there are not additional highway flex stimulus funds available. If stimulus money is available, the bond authorization would be cancelled under the bill. The General Assembly will take a year-to-year approach to phasing in the remainder of the four-year bond authorization to make sure the revenues are sufficient each year to pay for the bond plan. (STATUS: *Bond Bill / [SB 2358](#) / HB 2390 / signed by gov 6/25 / DOE: upon becoming law*)  
*Sponsor: Kyle*

Senate Republicans also made sure that language was placed into the bill requiring legislative oversight of any budget expansion requests. This will assure federal stimulus dollars coming into the state have the appropriate legislative checks and balances required by the state's Constitution.

It has been the practice in recent years that when the General Assembly is out of session expansion requests, also called supplemental appropriations, are recognized and acknowledged through a signature of the Senate and House Finance Committee Chairmen and sent back to the administration which dispenses the funds. New language included in the bill takes the next step in the direction of clarifying a better procedure and is in accordance with the Constitutional requirement.

Another change implemented by Senate Republicans requires the administration to notify each entity receiving non-recurring money in writing that their funds will expire in 2009-2010 or the subsequent year. The notification gives the appropriate notice to those entities receiving non-recurring money that they need to seek alternative funding in future years.

***Restoration of funds for vulnerable*** -- Other budget provisions included in the bill, as amended, adds back \$5 million in support grants for mental health, \$10 million for Mental Health Safety Net activities, \$4.9 million in grants for the coordinated school health program and \$4.5 million more for the Department of Children's Services to help dependent and neglected children.

The 2009-10 budget prioritizes education by fully funding the Basic Education Program, the state's funding formula for K-12 education. Tennessee's Pre-K program will be funded at its same level, under the plan. It also funds Tennessee's higher education at the highest level of funding to draw down approximately \$500 million in federal stimulus available through the American Recovery and Reinvestment Act. In addition, it funds lottery scholarships at the same level, despite the economic downturn, to provide students with the opportunity to receive a college education.

**Key budget points** -- On job growth, the legislation provides funds for economic development projects set to establish manufacturing facilities in the state including \$262 million for Volkswagen and Hemlock, as well as \$56.9 million for Wacker infrastructure. It provides \$27.3 million for the Haywood County megasite and Solar Farm in West Tennessee.

Other highlights and details of the budget include:

- Anticipates using \$520 million in one-time funding
- Anticipates revenue growth of .2 percent for the 2009-2010 fiscal year (high end of the Funding Board's estimates)
- Estimates the Rainy Day Fund to be at \$533 million, while the TennCare Reserve fund is expected to be \$341 million, at the end of the 2009-10 fiscal year.
- \$46 million in improvements to fully fund BEP growth
- \$9.3 million in improvements for K-12 test development
- \$11.9 million in improvements for local jail payments
- \$9.3 million in improvements to open the Morgan County Correctional Complex
- \$9.9 million in improvements to develop and expand Probation and Parole supervision programs
- \$370,000 was restored to the budget for Adult Education grants
- \$55.6 million in non-recurring improvements for economic and community development projects
- Keeps the employee pension fund actuarially sound
- Retains 401 K match at \$50 per month for state employees
- Includes \$3.7 million for severance and tuition assistance for individuals that are not retained as the budget eliminates 718 mostly vacant state employee positions this year and 1,373 positions over the next two years
- Keeps the state health insurance program fully funded
- Funds unemployment benefit increases and extended benefits
- *(STATUS: Budget (Appropriations) Bill [SB 2355](#) / HB 2392 / signed by gov 6/25 / DOE: July 1, 2009, provided, however, that any provision of this act which authorizes prior or immediate expenditures and any section or item which specifies an immediate effective date shall take effect upon becoming a law / Sponsor: Kyle)*

**Taxes** -- The total budget plan, as amended by Senate Republicans, cut several of the governor's proposed tax hikes, including one on cable television boxes and a measure to increase taxes on business phone rates, as well as curtailing the impact of a tax on family-owned limited liability corporations (FONCEs). These are certain family-owned limited

liability corporations and partnerships that derive passive income through commercial property. Senate Republicans fought to help small business owners by making sure these family-owned partnerships receiving rental income from residential rental property will continue to qualify for the FONCE exemption, provided the property has no more than four residential units (a quadplex).

The governor's budget included a plan that was approved this year to raise premium taxes on Health Maintenance Organizations (HMOs) to draw enough in federal matching funds to avoid a \$300 million cut to TennCare. Approximately 85 percent of income received by HMOs in Tennessee comes from TennCare. The administration maintains that the \$136.6 million raised by increasing the tax would benefit the HMOs due to increased TennCare funding that would be gained under federal matching funds. (*STATUS: [SB 2357](#) / [HB 2389](#) / signed by gov 6/25 / DOE: July 1, 2009*) sponsor: Kyle (*STATUS: [SB 2318](#) / [HB 2275](#) / signed by gov 6/25 / DOE: upon becoming law*) sponsor: Kyle

Finally, the Bredesen Administration won passage of legislation increasing unemployment insurance by raising the taxable wage base to \$9,000 from \$7,000 and adopting a 0.6 percent premium charge. The law contains triggers for higher premiums when the state's unemployment funds go down to insure solvency.

With unemployment at 10.7 percent as of June, there is a tremendous increase in benefit claims that threaten the solvency of the state's Unemployment Fund by the fourth quarter of 2009 if no action were taken. Insolvency would have meant federal control of the state's fund, meaning Washington could dictate future tax rates and wage base thresholds unless Tennessee took action to shore up the fund. It would have also meant mandatory borrowing with interest from the federal government that could have cost businesses much more in the long run, according to the administration.

## Children

The 2009 legislative session included passage of some of the most significant legislation in recent years aimed at protecting children. The bills approved this year ranged from boosting the state's ability to provide a stable home environment for children in state custody to strengthening Tennessee's child abuse laws, as well as tightening laws against child sexual predators.

***Children in State Custody / Post Adoption Services*** -- Legislation that aims to improve Tennessee's success rate in adopting children who were previously in state custody was approved during the 2009 legislative session. The bill clarifies state law to provide post-adoption services for child welfare adoptions.

The bill applies to adoptions when children have been taken into state custody for being unruly or delinquent and parental rights from the biological parents have been terminated. These are some of the most difficult adoption placements for the Department of Children's Services. However, the rate of success improves if post-adoption services are offered. A few of the services include crisis intervention, family and individual

counseling, support groups for parents and children, case management services, and networking of families and community providers.

Tennessee beats the national average on child adoption placements. This legislation makes sure that services are available to provide a healthier atmosphere for both the child and adoptive parents. (STATUS: [SB 1702](#) / [HB 1629](#) / signed by gov 6/25 / Sponsors: *Overbey, Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney L, Ford, O., Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Ketron, Kyle, Marrero B, McNally, Norris, Ramsey, Southerland, Stanley, Stewart, Tate, Tracy, Watson, Woodson, Yager* / July 1, 2009

***Relative Caregivers / temporary guardian*** – Legislation was approved this year that allows a relative caregiver to go to court and be named temporary guardian in cases where a child has been abandoned by their parents. Previously, parents could come back and take a child from a relative caregiver regardless of whether or not the child had been abandoned repeatedly. The bill is designed to give greater stability for a child whose parent has abandoned them to a relative caregiver, provided the court agrees that it is in the child's best interests. (STATUS: [SB 859](#) / [HB 327](#) / [PC 411](#) / DOE: July 1, 2009) sponsor: *Black, Burks, Marrero*

***Foster parent's rights*** – Legislation passed in 2009 to create a system in which foster parents can report failure of the Department of Children's Services and its employees to abide by the tenants of the state's Foster Parent Rights. The bill establishes a grievance procedure so foster parents can give and receive information up the chain of command about children in their care, if they feel these rights are not adhered to. STATUS: [SB 855](#) / [HB 351](#) / [PC 270](#) / DOE: July 1, 2009) sponsors: *Black, Marrero, Burks*

## ⊛ Children / Crime

***Child Abuse and Neglect*** -- The Tennessee General Assembly has made improvements to the state's child abuse laws over the last several years. Legislation approved this year continues those efforts by giving prosecutors the tools they need successfully to prosecute this horrible crime and end what too often becomes a cycle of violence.

Nationwide, four kids die everyday from child abuse, a reality which prompted child the legislature to declare April as Child Abuse Prevention month. In Tennessee, the state's Department of Children's Services responds to 37,000 reports of child abuse or neglect annually. This is one of the reasons that Tennessee ranked 42nd out of 50 states last year for overall well-being for children.

***Serious bodily injury*** – Legislation was approved in 2009 that adds specificity to what constitutes serious bodily injury in children, including second or third degree burns, a fracture of any bone, a concussion, subdural or subarachnoid bleeding, retinal hemorrhage, cerebral edema, brain contusion, injuries to the skin that involve severe bruising or the likelihood of permanent or protracted disfigurement sustained by whipping children with objects. Previously, Tennessee's law lacked a clear definition for the types of serious bodily injuries typically seen in child abuse, leaving it open to the

same interpretation applied to cases involving adults. Virtually all blunt head trauma to children, especially very young children, involves forces that have a high likelihood for causing permanent injury. However, many times these injuries show up later as a result of no medical intervention being taken at the time of the abuse.

Very young children often cannot describe pain associated with a child abuse injury. For example, a child may have evidence of bleeding on the brain from being shaken but may not show serious neurological impairment upon a general medical evaluation. Similarly, fracture injuries to children often result in no medical intervention. Arguments have been made by the defense that such injuries do not constitute serious bodily injury because no treatment was required or that it did not affect the child's mobility. This bill addresses this situation to provide fairness for these young and vulnerable victims. (*STATUS: [SB 866](#) / [HB 1142](#) / [PC 88](#) / DOE: July 1, 2009*) *Sponsors: Black, Marrero*

***Child abuse and neglect / victim's age*** – Legislation passed this year to increase the minimum age of the Class D felony offense of child abuse and child neglect or endangerment from six to eight years or age or younger. Previously, it was an enhancement to Tennessee's child abuse and child neglect law if the victim is six years of age or less. This bill enhances penalties against those who commit child abuse and child neglect in cases where the victim is eight year old or younger.

This legislation protects children by making sure their abusers are kept behind bars for a longer period of time. *STATUS: [SB 1531](#) / [HB 1261](#) / transmitted to gov 6/30 / DOE: July 1, 2009* *Sponsors: Burchett, Black, Finney L, Marrero B, Yager*

***Child Mortality*** – The General Assembly has passed a new law which clarifies the meaning of “near fatality” to allow the state to track the number of serious or critical medical conditions that result from child abuse or child sexual abuse. Federal legislation calls for the tracking of near fatalities in child abuse cases for reporting purposes. This legislation adopts that language defining near fatality as a “serious medical condition or injury as reported by a physician” so that there is full disclosure. (*SB 810 / HB 326 / [PC 86](#) / DOE: July 1, 2009*) *Sponsors: Overbey, Black, Burks, Marrero*

***Child Abuse / Dangerous Instrumentality*** -- Another bill which was approved by the legislature this year seeks to strengthen Tennessee's child abuse laws by adding definitions to give prosecutors more tools to put abusers in jail. Previously, there was no definition for what constitutes a “dangerous instrumentality” in a child abuse case. This left interpretation open to weapons generally used in adult cases like a gun or knife, despite the fact a young child can be seriously injured with objects like an extension cord. The new law provides a definition for dangerous instrumentality that includes any item capable of producing serious bodily injury to a child. (*STATUS: [SB 867](#) / [HB 1141](#) / [PC 89](#) / DOE: July 1, 2009*) *Sponsors: Black, Marrero*

***Sex Offenders / areas frequented by children*** -- -- Legislation prohibiting sex offenders from being or remaining within 1,000 feet of certain places where children are likely to gather has passed. The new law, which aims to strengthen Tennessee's laws to protect Tennessee children from sex offenders, applies to schools, licensed day care centers,

child care facilities, public parks, playgrounds, recreation centers or athletic fields when children under age 18 are present.

Current law sets a parameter of 500 feet as the distance sex offenders are prohibited from going near school property. This legislation expands that distance to 1,000 feet, and adds other places where children are likely to gather.

The bill also removes an exception that previously allowed sex offenders to be present on school property during school hours if they are making deliveries. (*STATUS: [SB 511](#) / [HB 1120](#) / transmitted to gov 6/30 / DOE: July 1, 2009*) *Sponsor: Woodson, Burchett, Black, Haynes, Burks*

***Child Abuse / Courts*** -- Another bill approved by state lawmakers this year addressing child abuse provides General Sessions, Circuit and Criminal Courts concurrent jurisdiction with Juvenile Courts over prosecutions of child abuse, neglect and endangerment offenses. The legislation is designed to allow a court to act more swiftly to provide protection for endangered kids.

Before, exclusive jurisdiction in child abuse cases was vested in Juvenile Court. This legislation retains jurisdiction in juvenile court, but allows the prosecutors the discretion to bring the case to another court which might be more appropriate to the crime or that might be able to hear the case quicker. (*STATUS: [SB 1530](#) / [HB 1260](#) / [PC 335](#) / DOE: July 1, 2009*) *Sponsor: Burchett, Finney L, Ketrone, Burks, Ford*

***Child Abuse / Videotaped Interviews*** -- In other action this year, the legislature gave final approval to a bill to allow videotaped interviews of abused children conducted by a forensic interviewer to be admissible in court. Any time a charge of child sexual abuse comes up the child is brought to a Child Advocacy Center to be interviewed on videotape by a forensic interviewer, a licensed professional who is trained to interview children regarding the alleged abuse. This bill defines forensic interviewer and the circumstances upon which those tapes would be admissible in a court of law. (*STATUS: [SB 312](#) / [HB 619](#) / [PC 413](#) / DOE: July 1, 2009*) *Sponsors: Black, Gresham, Burks, Finney*

***Missing Children / Prompt Action*** -- The General Assembly has approved legislation requiring law enforcement agencies to enter information into the NCIC (National Crime Information Center) database within two hours of receipt of a report of a missing child. The bill brings Tennessee into compliance with the Adam Walsh Act which was signed into law in 2006.

The Adam Walsh Act is the sweeping federal law, named after the murdered 6-year-old son of "America's Most Wanted" host John Walsh, that required states to adopt strict new standards for registering sex offenders and providing public information about their crimes and whereabouts. This included publishing photos and addresses of sex offenders online and toughening criminal penalties for those who fail to register, among other provisions. Tennessee made several changes to comply with the law last year. The states must comply with provisions of the act by 2009 or risk facing a 10 percent cut to their share of funds in a congressional grant program used to fight crime.

The legislation makes sure that Tennessee is acting quickly to enter the needed information to alert law enforcement of a missing child. It is hoped that this measure will help bring these children home quicker.

A report to the NCIC system does not automatically trigger an Amber Alert, which has a much higher standard of urgency before it is broadcast. (*STATUS: [SB 110](#) / [HB 483](#) / [PC 76](#) / [DOE: upon becoming law](#)) Sponsors: *Black, Burks, Ford**

***Sex Offenders / Violation of Parole*** -- The legislature has approved a measure to establish venue for a violation of supervision of a sex offender in the county where they were being supervised. The bill makes sure that if a sex offender violates the conditions of their parole, that valuable time and money are not spent by sending law enforcement to another locality where the violation took place and that the violator can be returned back to where they were being supervised for further court action. (*STATUS: [SB 284](#) / [HB 623](#) / [PC 115](#) / [DOE: July 1, 2009](#)) Sponsor: *Black, Ford**

## Consumers

Consumers benefited from several bills approved by the General Assembly this year on a wide variety of matters. Following are some of the key bills passed during the 2009 legislative session.

***Consumer Protection / Pharmacy*** -- Legislation was approved by the General Assembly this year addressing two important problems related to patients understanding their pharmacy benefits and cost of their prescriptions. Currently, pharmacies are often prohibited by language in provider contracts from telling patients what the pharmacy is being paid for their prescriptions, which prevents patients from knowing the real costs. The legislation, called the “Patient’s Right to Prescription Transparency Act of 2009,” prevents a health plan or Pharmacy Benefit Management Company (PBM) from restricting or prohibiting a pharmacy from giving the patient information regarding actual reimbursement. It also defines that percentage based co-pays be calculated based on the total prescription price the plan agrees to pay to the pharmacy. (*STATUS: [SB 774](#) / [HB 110](#) / [PC 355](#) ) Sponsor: *Overbey, Burks* / *DOE: January 1, 2010**

***Auto Consumers / Dealers*** – Consumers and automobile dealers would be protected under legislation passed by the State Legislature this year. The new law helps to ensure that monies paid or obligations owed are fulfilled in the event of a car manufacturer’s bankruptcy. It also ensures there are uninterrupted warranty repairs or maintenance for Tennessee consumers in cases of manufacturer bankruptcy. Finally, it protects consumer rights under the Tennessee Lemon Law and ensures obligations owed to dealers for customer rebates, employee buy-out vouchers, and warranty repair payments are paid. (*STATUS: [SB 516](#) / [HB 1751](#) / [PC 322](#) / [DOE: upon becoming law May 28, 2009](#)) / Sponsors: *Kyle, McNally, Overbey, Burchett, Bunch, Yager, Woodson, Berke, Marrero, Harper, Barnes, Crowe and Mr. Speaker Ramsey*)*

***Debt Management Services*** – State lawmakers have approved comprehensive legislation benefitting Tennessee consumers who utilize the services of debt management specialists. The legislation, named the Uniform Debt Management Services Act, provides guidance and regulation to the consumer debt management industry, while also providing fairer services to debtors.

Congress passed bankruptcy reform legislation in 2005 mandating counseling by a private agency before an individual may enter into bankruptcy. Debt settlement is the option that lies on the continuum between credit counseling and bankruptcy. It is most often used by consumers who may not qualify for credit counseling or who do not qualify under the new rules of bankruptcy or prefer to honor their debts to the best of their ability, rather than declare bankruptcy. Their services primarily include negotiating a reduction of the consumer's non-secured consumer debts in exchange for a faster repayment plan.

The legislation requires a debt management company in Tennessee to obtain a license and supply information about their practices, fees, educational materials and employee qualifications. A company must also post a surety bond or another security to safeguard any money that it receives from individuals for payment of creditors. In addition, the debt management company must provide a disclosure to consumers that this may not be the best option for them and that it may affect their credit rating.

The new act gives the Department of Commerce the right to take enforcement action against anyone who violates the act. It also creates a consumer right of action and treble damages for certain circumstances involving abuse. *STATUS: [SB 812](#) / [HB 1278](#) / [PC 469](#) / DOE: July 1, 2010) Sponsor: Overbey, Marrero*

***Foreclosure scams*** -- Legislation to protect consumers who are in danger of losing their homes from being scammed by an unscrupulous foreclosure rescue company has been approved this year. The new law requires a written agreement between the homeowner and a for-profit mortgage rescue consultant and gives the consumer the right to cancel it within three business days after signing. It also bans the collection of fees by a foreclosure rescue consultant until a written agreement between the parties has been fulfilled.

The legislation seeks to ensure that people who are going through this very hard situation are not preyed upon by scam artists. (*STATUS: [SB 1763](#) / [HB 2218](#) / [PC 198](#) / DOE: upon becoming law) sponsors: Herron, Marrero, Harper, Barnes, Burks*

***Market Regulation Act*** – A new law passed this year will modernize state telecommunications policy and promote more competition and choice for Tennessee consumers. The measure allows existing traditional telephone providers to opt into “Market Regulation” so they will be treated on the same terms as their competitors in the cable, wireless and Internet telephone companies.

When Tennessee lawmakers rewrote the state's telecommunications law in 1995, they retained regulations on existing telephone providers. Since then, new

telecommunications companies have emerged using technologies that did not exist when the law was written and that are not under the same regulations as traditional phone companies.

Under this legislation, called the “Market Regulation Act of 2009,” the TRA will continue to regulate wholesale telecommunications in Tennessee for market regulated companies. It also keeps in place government support programs such as the Lifeline to assist seniors and low income consumers. Consumers would continue to have a variety of alternatives for resolving complaints regarding phone rates. However, sponsors feel that the increased competition will keep companies from raising rates as they vie to attract and retain customers. In addition, the legislation includes language to assure there will be no rate hikes in rural areas for at least one year.

Similar market regulation legislation has passed in other states, including Alabama, Mississippi, Indiana, Nevada and Missouri; and is currently pending in South Carolina, North Carolina, Georgia and Florida. (STATUS: [SB 1965](#) / [HB 1698](#) / [PC 278](#) / DOE: upon becoming law) sponsors: Stanley, Stewart, Beavers, Burchett, Ketron, Harper, Johnson, Tracy, Norris, Tate, Ford

**Electric coops** – Finally, the Legislature passed a new law this year to allow municipal and rural electric companies to join together to provide electric generating capacity to consumers. Currently they can only provide those services separately. The measure gives the localities the flexibility to form a cooperative so they can provide wholesale electric power and energy services to customers. (STATUS: [SB 1089](#) / [HB 1518](#) / [PC 475](#) / DOE: upon becoming law) sponsor: McNally, Burks

## Court System

**Judicial Selection** – Legislation that revises the method for selecting the state’s appellate and Supreme Court Judges was approved this year after spirited debate on the matter. The action came just before the Judicial Selection Commission, a component of Tennessee’s previous plan for appointing judges, was set to expire. Under the previous system, the commission that nominates judges was selected from lists submitted by various legal organizations to the Speakers of the House and Senate and governor.

The new law sets up a new Nominating Commission with fewer attorney members and less special interest input. It provides for a 17-member Judicial Nominating Commission that would have at least 10 attorney members, rather than the previous system that is dominated by legal profession. In addition, it bans lobbyists or employers of lobbyists from serving on the Nominating Commission to curtail special interest input.

After reviewing nominees, the Commission sends the governor a panel of three nominees for consideration. The governor must then appoint one of the nominees or reject the panel and request a second panel. After being appointed through this process, the judges will continue to stand for approval by the voters who will decide whether or not to

"retain" or "replace" them. Currently, citizens vote “yes” or “no” on the ballot regarding the retention of judges.

If voters decide to replace a judge, an interim judge would be appointed by the governor until the next election. At that point, the people could decide who will fill the slot through a popular election, which is the same process by which the state’s trial judges are currently selected.

Finally, the legislation provides public access to every aspect of the nominating process.

Tennessee’s Constitution says judges must be “elected by the qualified voters of the state.” The debate on the bill this year focused on whether or not the selection process with a retention vote meets that test. A separate bill failed to get out of committee that would have called for a Constitutional Convention to let the people decide whether or not they want to popularly elect the judges or opt to continue a nomination system process followed by a retention vote. (STATUS: [SB 1573](#) / [HB 1448](#) / signed by gov 6/25) Sponsors: *Woodson, Haynes, Overbey*

## ☼ **Crime / Victims / Burglary / Domestic Violence**

***Victims of Crime / Notification*** -- Legislation to provide funding for a program that gives victims of crime notification regarding any change in status of the offender has become law as a result of action taken during the 2009 legislative session. The bill creates the Statewide Automated Victim Information and Notification System Fund by adding a \$1 litigation tax on all criminal charges. The purpose of this statewide automated victims program is to increase the safety of victims of crime by providing access to timely and reliable information about the custody status of offenders in county jails. This system is operable 24 hours a day over the telephone, through the Internet, or by email.

Before, 56 counties in Tennessee participate in the Statewide Automated Victim’s Notification Program, known as VINE. Another 19 counties were expected to join the program by the end of the year, to boost the total number of participating counties to 75. However, federal grants that provided funding for the program are set to expire. This legislation would raise the necessary funds to keep the program up and running and expand its scope to more Tennessee counties.

Victims of a crime or other concerned citizens can register to be notified immediately in the event of an offender’s release, transfer or escape through the program. (STATUS: [SB 1684](#) / [HB 1430](#) / [PC 488](#) / DOE: July 1, 2009) Sponsor: *Ketron, Burks, Jackson, Ford, Harper, Herron, Norris, Marrero, Black*

***Victims of crime / Personal Identifying Information*** – Victims of crime are also the focus of another bill approved this year which keeps the personal contact information of crime victims participating in the Criminal Injuries Compensation Fund confidential. The legislation keeps the address, telephone number, social security number and the

criminal offense from which the victim is receiving compensation closed from public inspection to protect the victim from the perpetrator or others who might seek revenge.

The Victim's Compensation Fund provides financial help in cases where a crime victim sustains bodily injury or death as a direct result of a violent crime. (STATUS: [SB 880](#) / [HB 1247](#) / [PC 328](#) / DOE: upon becoming law) Sponsors: *Ketron, Burks*

***Crime / Shoplifters*** -- The General Assembly has approved a new law to create a new Class A misdemeanor criminal offense for possession of shoplifting tools used to disable store security systems. The legislation comes after malls in Tennessee have seen a large increase in a product that is used to line shopping bags that allow criminals to take thousands of dollars of merchandise without setting off store alarm systems. (STATUS: [SB 437](#) / [HB 748](#) / [PC 83](#) / DOE: July 1, 2009) Sponsor: *Overbey*

***Escape from police custody*** -- Legislation that strengthens penalties against those who escape arrest has become law as a result of legislative action this session. The bill provides that a person commits the offense of escape if they knowingly flee the lawful custody of a law enforcement officer. A violation of this bill would be a Class A misdemeanor regardless of whether the person was being held for a misdemeanor, civil offense, or felony. (STATUS: [SB 388](#) / [HB 522](#) / [PC 241](#) / DOE: July 1, 2009) Sponsors: *Gresham, Overbey*

***Strengthening Crooks with Guns law*** -- The final day of the legislative session included approval of major legislation cracking down on violent crime in Tennessee that builds on the "Crooks with Guns Law" passed during the last General Assembly. The bill adds attempted first degree murder to the Crooks with Guns Law.

Tennessee ranks second in the nation in the number of violent crimes. The legislation would work to keep those offenders off the street where they are no longer a danger to the public. Sixty-seven percent of those convicted of violent crimes are re-arrested within three years of being released from prison. The recidivism rate increases to 80 percent when you move past that three-year marker.

The bill adds a minimum of three years to the sentence of a violator who possesses a firearm during the commission of attempted first-degree murder, to be served after the underlying offense. If a violator possesses a firearm during the commission of the attempted first-degree murder and has a prior felony conviction, then a mandatory minimum of five years would be added to the sentence.

In addition, if a violator possesses a firearm during the commission or an attempt to commit a dangerous felony or attempting to escape, then a mandatory minimum of six years is added to the sentence to be served after the underlying offense. A prior felony conviction from this would add 10 years onto the sentence.

The original "Crooks with Guns" legislation made it an additional offense to be armed with a firearm when committing a list of dangerous felonies like aggravated and especially aggravated kidnapping, burglary, stalking, carjacking, voluntary manslaughter,

and certain drug crimes. (STATUS: [SB 672](#) / [HB 706](#) / transmitted to gov 6/30 / DOE: January 1, 2009) Sponsors: Norris, Overbey, Marrero, Burks, Black

**Burglary** -- Similarly, the General Assembly approved a bill aimed at keeping repeat violent criminals convicted of aggravated burglary behind bars longer by counting each felony committed within a 24-hour period as a separate offense.

Before, with few exceptions, felonies committed within a 24-hour period constitute one conviction for the purpose of determining prior convictions by the court. This bill requires all aggravated burglaries a defendant commits within a 24-hour period to be counted as separate prior convictions for purposes of determining whether the defendant is a multiple, persistent, or career offender under the Criminal Sentencing Reform Act. (STATUS: [SB 2115](#) / [HB 2193](#) / transmitted to gov 6/30 / DOE: July 1, 2009), Sponsors: Norris, Overbey, Burks, Black, Yager

**Money laundering** – Lawmakers have approved legislation that allows a court to take the ill-gotten gains of criminals who are convicted under Tennessee’s money laundering law. The bill defines the term “proceeds” of the criminal activity as interpreted by the U.S. Supreme Court in the decision *U.S. v. Santos*.

Before, Tennessee law did not provide for a definition in accordance with the U.S. Supreme Court’s *Santos* decision that would allow for law enforcement to go after the gross proceeds of ill-gotten gains of criminals who are convicted of laundering money. This bill cures that problem by defining the term “proceeds” and “gross proceeds” used under the law, so that criminals cannot keep assets gained by their illegal activities and can be prosecuted to the full extent of the law. The legislation defines “proceeds” to include “gross proceeds” to make it a crime to engage in a financial transaction of certain specified unlawful activities with the intent to promote those activities or to conceal the proceeds. The proceeds include any real, personal or intangible property of any kind connected to the illegal activity.

The *Santos* case involved the conviction in Indiana federal court of running an illegal gambling business and money laundering. Because Santos’s conviction was based on evidence that he used gross receipts, not profits, to promote his gambling ring, the District Court overturned his money laundering conviction, which was later upheld by the U.S. Supreme Court. The court ruling meant that to prove money laundering, the government is required to show that profits from the underlying illegal activity were used to further promote or conceal that activity. (STATUS: [SB 784](#) / [HB 590](#) / [PC 386](#) / DOE: July 1, 2009) sponsor: Overbey

**Domestic Violence** – The State Senate approved two bills this year dealing with domestic violence. One bill provides for a tenth court to hear domestic violence cases in Shelby County. (STATUS: [SB 1094](#) / [HB 1212](#) / [PC 391](#) / DOE: upon becoming law) sponsors: Stanley, Marrero, Ford

The second bill sets forth a process for surrender of a firearm in cases where an order of protection has been granted in domestic violence cases. The legislation aims to prevent

an act of violence by setting up a procedure for the person to hand the gun over to a third party. The possession of a firearm while under an order of protection is an offense under federal law. (STATUS: [SB 314](#) / [HB 1225](#) / [PC 455](#) / DOE: July 1, 2009) sponsors: Black, Harper, Marerro, Burks, Finney

## ☼ Crime / DUI

***Selling to intoxicated persons*** -- The State Senate approved legislation during the 2009 legislative session clarifying Tennessee law to make it easier for District Attorneys in the state to prosecute irresponsible businesses that serve alcohol to a person who is “visibly” intoxicated. The new law will also make it easier for a person who is injured by a drunk driver to recover damages.

The legislation works in concert with another bill passed this year to clarify three different criminal statutes dealing with selling alcoholic beverages to intoxicated persons.

The Alcoholic Beverage Commission already has a definition for “visibly intoxicated” that would be the standard under the two bills passed this year. The Commission is responsible for providing the course needed before a server can serve alcohol. (STATUS: [SB 1939](#) / [HB 1579](#) / [PC 492](#) / DOE: upon becoming law) sponsor: Faulk (STATUS: [SB 1947](#) / [HB 1580](#) / [PC 208](#) / DOE: July 1, 2009) sponsor: Faulk

Similarly, adults who knowingly allow youths aged 18 to 21 to drink alcoholic beverages could be prosecuted under a law that was approved by State Senators in the 2009 legislative session. The bill closes a loophole in the current law regarding underage drinking by applying it to all youths banned from consuming alcohol under Tennessee law. (STATUS: [SB 38](#) / [HB 250](#) / Transmitted to gov. 6/19 / DOE: July 1, 2009) sponsors: Tracy, Ketron, Faulk, Yager, Bunch, Burks

***DUI*** – Legislation was approved this year that requires the testing of a driver’s blood alcohol content level in cases where there is serious bodily injury to a victim or death. The legislation calls for the test to be performed whether or not the driver consents. Presently, only drivers where a death is involved are required to be tested. This legislation extends that requirement in cases where a victim is seriously injured and the law enforcement official has probable cause to believe that the driver has committed the offense of vehicular assault. The test results may be offered into evidence, subject to the rules of evidence. (STATUS: [SB 534](#) / [HB 355](#) / [PC 324](#) / DOE: July 1, 2009) sponsors: McNally, Faulk, Burks

## ☼ Economic Development and Jobs

***Economic Development / Hemlock and Volkswagen*** – Legislation was approved early in the legislative session authorizing the state to issue \$262 million in bonds to fund grants for infrastructure for Wacker and Volkswagen in Montgomery and Hamilton

Counties. Volkswagen is planning to make an initial \$1 billion investment in Chattanooga, while Hemlock plans to invest \$1.2 billion in Clarksville. The new Volkswagen plant means more than 2,000 new jobs in Tennessee, just in the plant itself. It is also expected to create more jobs in the region due to vendor businesses that will also locate here as a result of the plant. Hemlock is expected to create 500 new jobs, with the potential of employing up to 900 people within five to seven years. (*STATUS: SB 315 / HB 421 / PC 3 / DOE: effective upon becoming law, March 2, 2009*) *Sponsor: Kyle, Watson, Barnes, Berke, Ford*

**Megasite / West Tennessee** -- Legislation that enhances the prospects of bringing new industry to West Tennessee met approval in this year's legislative session. The bill makes numerous changes to the Tennessee Regional Megasite Authority Act of 2007, including the ability for authorities to purchase nearby property to be included in the megasite zone. This provision means a Megasite authority could purchase land for critical infrastructure needs, like a highway ramp or rail spurs in non-contiguous acreage. Currently, additional property within the megasite zone must be contiguous. The legislation also deals with the make-up of the megasite authority, making it much like a local industrial development board to enhance success of the project

This measure is in addition to the allocation of more than \$27 million in bonds slated for the project in the 2009-10 budget to allow authorities to buy land for the Haywood County megasite. It is hoped that the measure will have the same impact on the area as the megasites in Clarksville and Chattanooga. (*STATUS: SB 653 / HB 1115 / PC 153 / DOE: Upon becoming law*) *sponsors: Finney L., Henry, Tate, Ford, O., Gresham, Norris, Berke, Marrero B, Tracy, Herron*

**TVA / ALCOA** – A resolution was approved by the Legislature urging the Tennessee Valley Authority (TVA) Board of Directors to enter into a long-term contract with Aluminum Company of America (Alcoa). The resolution sends a message to Congress and the TVA that Tennessee believes it is critical to finalize this contract. Approximately 500 jobs are dependent on restarting the smelter at Alcoa which is, in turn, dependent upon completion of a competitive long-term power contract. The resolution will be delivered to TVA's Board of Directors and each member of the Tennessee Congressional delegation. (*STATUS: SJR 622 / signed by gov 6/25*) *sponsors: Overbey, Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney L, Ford, O., Gresham, Harper, Haynes, Henry, Herron, Johnson, Ketrone, Kyle, Marrero B, McNally, Norris, Ramsey, Southerland, Stanley, Stewart, Tate, Tracy, Watson, Woodson, Yager*

**Small business investment** -- Before adjourning the 2009 legislative session, the General Assembly passed innovative legislation designed to grow jobs through a program that would provide capital to small businesses. The bill creates the TNINVESTCO Program to provide benefits to small, medium-sized, and start-up businesses that do not enjoy the same economic development incentives that have been provided to the larger companies that invest capital in Tennessee.

The overwhelming majority of jobs in this state are created by small businesses. The new law authorizes tax incentives for private investors to create a pool of capital totaling \$120 million. That money will be divided among professional investment firms. These

Tennessee-based firms will then invest the money in small businesses located and headquartered in Tennessee. The money must remain invested in Tennessee for ten years.

Under the plan, investors receive a tax credit against insurance premium taxes that spread over years three through ten of the program. Even though the capital will be available for small businesses immediately, there are no tax credits for investors until 2012. Capital returned to the state must first go to the General Fund. Once enough money has been repaid, the remaining funds will be deposited in the Rural Opportunity Fund. (*STATUS: [SB 1203](#) / [HB 2085](#) / transmitted to gov 6/30 / DOE: upon becoming law*) Sponsors: Ramsey, Stewart, Stanley, Tracy, Finney, Jackson, Bunch, Burks, Burchett, Ketron, Watson, Johnson, Berke, Black, Tate, Southerland, Crowe, Yager

## Education

**Funding Education** -- The budget, as it pertains to funding education, was a key issue this year as the legislature faced a dramatic downturn in state revenues. As approved, the budget fully funded K-12 and the Pre-K programs, as well as the same level of funding for lottery scholarships. Lottery proceeds for education are estimated to be \$269 million for the 2009-10 fiscal year, while proceeds for after-school programs are expected to be approximately \$13.2 million. The budget also restores higher education funding to the highest level to draw down federal stimulus funds. In addition, several higher education capital projects were approved through the bond legislation passed this year.

**Charter Schools** – Major education reform legislation that strengthens Tennessee’s public charter school law was among the final bills approved by the General Assembly as the 2009 session wrapped up this year. The new law widens eligibility, clarifies funding and addresses rules for renewal of the public charter schools.

Previously, Tennessee had one of the most restrictive public charter school laws in the nation. The legislation also puts into place a process so the best practices gained from the “laboratories of learning” go into traditional school programs.

Charter schools are public schools that are given flexibility to operate without the constraints of some of the rules and regulations normally imposed on traditional schools. In exchange for this flexibility, they are held accountable for performance through a charter, which is an agreement between the Local Education Agency (LEA) and the charter school. It requires a strenuous approval process by the LEA and an equally tough renewal process of the charter every five years.

The legislation addresses four provisions in the current charter school law.

- **Eligibility** -- Currently, public charter school enrollment is limited primarily to failing students and those from failing schools. This legislation permits “at-risk” children (as defined by free and reduced-price lunch) to attend charter schools in those systems that have 14,000 or more students and three or more schools which

- do not meet adequate yearly progress benchmarks. In addition, school boards can opt by a two-thirds vote to allow students who are “at risk” to be eligible to attend charter schools.
- **Caps** -- Currently public charter schools are limited to 50 statewide, with a cap of 35 in Memphis and 20 in Nashville. This bill says that converted charter schools do not count against the cap, clarifying in law what the Attorney General has already opined. In addition the number of charter schools statewide would be limited to 90.
  - **Renewal process** – Currently, the agreement between the LEA and the charter school is renewed every five years. This measure would change the renewal period from five to ten years, with an interim report every five years. It also establishes the required documentation needed during the renewal process.
  - **Funding** – Currently a public charter school receives a per pupil expenditure of state and local dollars. Although it mentions appropriate federal dollars, interpretations vary from one LEA to the next. This legislation defines the state and local charter school facilities funding responsibilities and clarifies that LEAs must allocate all appropriate federal funds, including Title I and ESEA funds, to the charter schools. (*STATUS: [SB 2133](#) / 2146 / signed by gov 6/29 / DOE: July 1, 2009*)  
*Sponsor: Woodson, Gresham, Henry, Johnson, Beavers, Watson, Tracy, Ketron, Ramsey*

**School buses** -- State legislators have approved a new law authorizing local education agencies (LEAs) to extend the use of school buses for two more years as long as they do not exceed 200,000 miles and meet certain safety requirements. The legislation gives school boards more tools to plan their transportation budget needs.

Previously, school systems could use a bus for 12 years, at which time the Commissioner of Education may grant waivers for an additional three years on a year-to-year basis upon meeting the requirements similar to those of conventional school buses. Under the new law, LEAs would be authorized to ask for a waiver to use a bus up to 17 years, as long as it does not exceed the 200,000-mile cap and the bus is inspected at least twice annually. The inspectors could mandate needed repairs.

Any bus reaching the 200,000 limit would have to be replaced within 90 days. The local agencies would be required to maintain records of all actions and safety inspections performed on the bus from its in-service date for the Tennessee Department of Safety. (*STATUS: [SB23](#) / [HB 92](#) / [PC 436](#) / DOE: July 1, 2009*), *Sponsor: Yager, Faulk, Barnes, Burks, Jackson*

**Bullying / Clean-up** – Two anti-bullying laws were approved by Tennessee lawmakers this year expanding on the state’s model bullying law passed in 2005. Technology has now given way to cyberbullying, which challenges the traditional schoolyard bullying. New studies have found that approximately 30 percent of students in grades six through eight reported they recently had been cyberbullied or had cyberbullied another person at least once.

One new law passed this year requires each Local Education Agency to adopt a policy that prohibits harassment, intimidation, or bullying. The new law makes the various

policies implemented by local education agencies across the state under the 2005 bullying law more consistent and stronger by requiring 13 standards that must be included in each system's anti-bullying policy. (STATUS: [SB 283](#) / [HB 451](#) / [PC 153](#) / DOE: July 1, 2009)  
Sponsors: *Black, Burks, Ford*

The second law approved this year broadens the Class A misdemeanor offense for harassment to include maliciously intimidating a person by any means of communication and causing them to be frightened or emotionally harmed. This includes bullying by e-mail or over the Internet. Law enforcement maintained that the previous Tennessee law did not have enough teeth to tell the person doing the cyberbullying that it was against the law.

The bill was brought to the legislature after several cases were reported of students outside school being harassed through Internet communications. It also comes after the highly publicized 2006 death of a 14-year-old girl in Missouri who committed suicide after a former friend's mother created a fake profile of a fictional teen boy on a social networking website and used it to post humiliating lies about her.

The bill was originally aimed at preventing Internet bullying of minors, but lawmakers removed its 18-year-old age limit so that it also applies to adult victims of malicious electronic communications as well.

Research indicates that approximately 160,000 students avoid school every day for fear of being bullied. Almost 60 percent of boys who were classified by researchers as bullies in grades six through nine were convicted of at least one crime by age 24, at which time, 40 percent of them had three or more convictions. In 2002, a report released by the U.S. Secret Service concluded that bullying played a significant role in many school shootings and that efforts should be made to eliminate bullying behavior. (STATUS: / [SB 113](#) / [HB 484](#) / [PC 347](#) / DOE: July 1, 2009 ) sponsors: *Black, Burks*

**Home school diplomas** – The General Assembly has approved legislation that requires home school diplomas to be recognized as a regular public high school diploma. Before, those graduating from a home school were treated unfairly in seeking jobs that, by statute, require a high school diploma - ranging from day care worker to law enforcement officer. The Department of Education has been "misinterpreting" those statutes by declaring that homeschool graduates do not meet the high school diploma requirement unless they also obtain a GED certificate.

This measure makes sure that graduated of church-related schools or home schools are recognized by all state and local governmental entities as having the same rights and privileges of those holding diplomas issued by public school systems. (STATUS: [SB 433](#) / [HB 431](#) / [PC 329](#) / DOE: Upon becoming law), sponsors: *Bunch, Gresham, Johnson, Beavers, Ketron, Woodson, Yager, Black, Faulk, Tracy, Burks*

**Education pays** – State lawmakers have approved legislation that encourages local education agencies (LEAs) to develop "Education Pays" pilot programs for at-risk students. The idea is for the Pilot Program to provide monetary rewards or other rewards

of value for academic achievement funded through private organizations. The measure also encourages the State Board of Education to study the effects of any such programs in Tennessee and other states and to report its findings to the General Assembly. Several localities across the country have been successful in implementing such programs to ensure that the right incentives are in place to reward good behavior for high risk youth. (STATUS: [SB 482](#) / [HB 556](#) / [PC 326](#) / Sponsor: *Bunch, Ford*)

***Education / Troops to Teachers*** – The General Assembly approved legislation this year directing the Department of Education to develop an alternative program for former community college military instructors to obtain a license to teach in Tennessee schools. The legislation, which is modeled after a Florida law, paves the way for those who have served their country to continue to serve their community by teaching in our schools. Tennessee already receives funding from the U.S. Department of Defense to help with coursework and financial needs for former military service employees to get their teaching credentials. The Department of Education would utilize this legislation to assist with those efforts. (STATUS: [SB 1703](#) / [HB 1487](#) / [PC 221](#) / DOE: *Upon becoming law*) Sponsor: *Overbey, Stewart, Berke, Watson*

***Education / Parental Consent for Mental Health Screening*** – State lawmakers have approved legislation that places restrictions on universal mental health testing or social/emotional screening of juveniles. The new law prevents the screening from being done without the parent's consent. It also prohibits a local education agency from using a parent's refusal for medication or screening as grounds for not allowing the child to participate in class or other school activities. (STATUS: [SB 850](#) / [HB 1552](#) / [PC 127](#) / DOE: *July 1, 2009*) Sponsors: *Black, Burks, Gresham, Beavers, Ketron, Crowe, McNally, Burchett, Tracy, Ramsey, Yager, Southerland, Stanley, Bunch, Norris, Johnson, Faulk, Watson*

## **Elections / Ethics / Open Government**

***Election Appearance / Governor*** – Among election bills approved this year, was a bill that urges the executive committees of each statewide political party to jointly establish a calendar of appearances in each county in Tennessee that enables their respective gubernatorial candidates to appear together during the time between the primary and general elections. Each candidate would be provided an opportunity to speak at each appearance, under the bill. Following each candidate's speech, time would be provided for a town hall forum. If such a schedule is established, this new law recommends that the schedules be posted on the parties' Web sites. (STATUS: [SB 2186](#) / [HB 1841](#) / [PC 236](#) / DOE: *Upon becoming law*) Sponsor: *Faulk*

***Elections / Military*** -- Another bill regarding elections approved during the 2009 session honors the service of those in the military by making it easier for those overseas to access and return the necessary documents to vote absentee. In the last election, many Tennesseans serving overseas requested that they be allowed to send their scanned documents by email because they did not have access to a fax in Iraq and Afghanistan.

This legislation allows Tennesseans serving in the military overseas to scan an absentee request or change of address form and attach the document to an email to be sent to the their county election office to make it easier for them to vote. Currently, only a fax is allowed. The local election office would still compare the signature of the voter before mailing the ballot. (STATUS: [SB 1420](#) / [HB 1421](#) / [PC 218](#) / DOE: July 1, 2009) Sponsors: *Ketron, Ramsey*

**State Election Commission** – Legislation was approved in 2009 to update the political composition of the State Election Commission to reflect a Republican majority as a result of the 2008 election. State law previously required that the political composition of the five-member State Election Commission be three members of the majority party and two members of the minority party. Under the bill the new members will rotate off the Commission in two years when their terms of office expire. The make-up of the board will consequently return to a five-member status after that time. Two new Republican commissioners were added to the Tennessee Election Commission in June after the nominees were confirmed in a joint legislative session of the General Assembly, including Judy Blackburn, the first woman in Tennessee history to serve on the Commission. (STATUS: [SB 547](#) / [HB 845](#) / [PC 376](#) / DOE: Upon becoming law) Sponsors: *Norris, Black*

**Online Sunshine** -- The Legislature gave final approval to legislation expanding a pilot program utilized in Knox County that brings sunshine online to the Internet. The bill uses technology to set up an online forum for elected officials to communicate outside of public meetings but within the bounds of the state’s Sunshine law. Under the new law, elected bodies could set up websites where they can post messages to one another. These “conversations” would be available for the public and the media’s viewing. (STATUS: [SB 832](#) / [HB 533](#) / [PC 175](#) / DOE: upon becoming law) sponsor: *McNally*

**Bureau of Ethics and Campaign Finance** -- The General Assembly has voted to merge the Tennessee Ethics Commission and the Registry of Election Finance, keeping the boards independent, but under one umbrella named the Bureau of Ethics and Campaign Finance. The measure provides that all ethics provisions remain intact. The Commission would have expired on July 1 unless other legislative action was taken. (STATUS: [SB 162](#) / [HB 506](#) / signed by gov 6/30 / DOE: Section 1 – 25 July 1, 2009, all other upon becoming law) sponsors: *Ketron, Beavers, Johnson*

## ⊛ Employees

**Unemployment Trust Fund** -- Legislation to “shore up” Tennessee’s declining Unemployment Trust Fund was approved this year to enable the state to draw down \$141 million in stimulus funds. The state was required to enact three costly options from a menu of five expansions of benefits to receive stimulus funds under the American Recovery and Reinvestment Act (ARRA). Following the requirement, the unemployment bill reduces the time period in which applicants must work to be

determined eligible, changes the number of hours for eligibility for part-time workers from 32 to 20, and increases payments to applicants with dependents.

The federal stimulus law does not allow states to automatically “sunset” the expansion of benefits when the stimulus money is exhausted. The Tennessee Department of Labor has determined the bill will cost Tennessee approximately \$30 million per year, when the stimulus funds dry up, which causes some to have future concerns for the solvency of the fund.

In addition, the unemployment bill would increase unemployment insurance to maintain solvency of the fund by raising the taxable wage base to \$9,000 from \$7,000 triggered by the amount of money remaining in the fund and adopts a 0.6 percent premium charge.

With unemployment at over 10 percent in Tennessee as of June, there is a tremendous increase in benefit claims. Insolvency would have meant federal control of the state’s fund, meaning Washington could have dictated future tax rates and wage base thresholds. It would have also meant mandatory borrowing with interest from the federal government that could cost businesses more in the long run according to the Bredesen administration. The legislation generates \$220 million in new revenues, a level which Labor Commissioner James Neely says would keep Tennessee from going “into the red” and borrowing from the federal government at interest rates of up to 25 percent. (*STATUS: [SB 2315](#) / [HB 2324](#) / signed by gov 6/25 / DOE: upon becoming law*) sponsors: *Kyle, Henry, Marrero*

## **Energy / Environment / Ethanol**

*Green jobs and sustainable buildings* -- Legislation that would enable local governments to promote energy efficiency and sustainability was approved by the General Assembly. The new law expands local power of housing and development agencies to promote economic development through the use of tax increment financing. The legislation creates incentives for local governments to use tax increment financing to pay for energy efficiency costs, encourages sustainable design by including Green Globes and LEED-certification costs within the financing package, and promotes local alternative energy projects that incorporate green design principles. These organizations provide the nationally-recognized standards for energy efficiency. *STATUS: [SB 1919](#) / [HB 1468](#) / [PC 491](#) / DOE: upon becoming law*) sponsor: *Johnson, Overbey, Faulk, Marrero, Finney*

*Solar Institute / Solar Farm* – The budget includes the use of \$62.5 million in federal American Recovery and Reinvestment Act funds to “advance job creation, education, research, and renewable-power production in Tennessee.” The Tennessee Solar Institute at the Oak Ridge National Laboratory in conjunction with Tennessee’s universities will focus on basic science and industry partnerships to improve the affordability and efficiency of solar products. The development of a West Tennessee Solar Farm near Brownsville will involve a five-megawatt 20-acre power generation facility at the Haywood County industrial megasite that will be one of the largest installations in the

Southeast. That facility would also serve as a demonstration tool for educational, research and economic-development purposes.

***Gasoline / Ethanol*** -- Legislation that allows more Tennessee products to be used in the blending process of gasoline was approved by lawmakers. The bill requires suppliers of gasoline products to make gasoline available to wholesalers in a condition that allows the wholesaler to blend it with ethanol.

The federal government has adopted policies which have encouraged the blending of ethanol and other agriculturally produced products with petroleum-based fuels. Tennessee has also encouraged the agricultural production of crops for conversion into ethanol and biodiesel additives to expand the use of these products.

In 2008, major oil company suppliers began to cut off wholesalers' access to unblended product. This refusal has prevented wholesalers from visiting ethanol terminals within the state and blending the product which might ultimately result in a drastic decrease in the consumption of Tennessee ethanol.

This legislation benefits the agricultural industry and further lessens our reliance upon foreign imported petroleum products. (*STATUS: [SB 1931](#) / [HB 1517](#) / signed by gov 6/25 / DOE: upon becoming law*) *sponsors: Woodson, Burchett, Ketron, Overbey, Gresham, Herron, Ford, Marrero, Burks*

***Methane Gas*** – Another environmental bill passed this year encourages the development and use of refined and purified methane gas as a renewable green energy source. Generating electricity from solid waste landfills is a relatively cost-effective way to provide new renewable energy generation capacity to help supply community power needs, while helping to create local jobs.

The legislation makes it clear that once refined, the extracted methane is a commercial equivalent to natural gas under Tennessee law. It also says that it would be treated as such under any permits allowing burning or use of natural gas. In addition, the legislation makes it clear that any prohibition in permits that bar use of burning of landfill gas refer only to the unrefined gases generated underground at a landfill and not the extracted and refined methane.

Experts maintain landfill gas emitted from decomposing garbage is a reliable and renewable fuel option that remains largely untapped at many landfills across the United States despite its many benefits. Generating energy from landfill methane gas creates a number of environmental benefits, including the reduction of greenhouse gas emissions and improving the air quality of the surrounding community by reducing landfill odors. The purified extracted methane can be transported by pipeline. (*SB 2066 / [HB 1912](#) / [PC 73](#) / DOE: July 1, 2009*) *sponsors: Overbey, Burks*

***Environment / Coal Fly Ash*** – Following one of the largest environmental disasters in Tennessee history with the coal ash spill in Kingston, legislators voted this year to prohibit the issuance of permits for the storage of coal fly ash in landfills unless they

contain a liner for protection of groundwater and are capped properly. The legislation requires the state's Department of Environment and Conservation (TDEC) to issue a permit or request for expansion of an existing landfill only if it meets those requirements for the storage of the coal by-product.

The Roane County coal ash spill released more than 5.4 million cubic yards of ash into the river from an on-site lagoon, also referred to as a holding pond, at the Kingston Fossil Plant. Fly ash is a fine, glass-like powder recovered from gases created by coal-fired electric power generation. The ash contains arsenic, which means it must be treated as a "hazardous substance" as it is moved from the Kingston site to a landfill. Earlier this year, officials reported the removal of the sludge from the Kingston spill is expected to cost TVA between \$525 to \$825 million. (*STATUS: [SB 1559](#), [HB 1628](#) / [PC 255](#) / DOE: upon becoming law*) *sponsors: Burchett, Yager, Marrero, Berke, Herron, Burks, Woodson, Ford*

**Water law** -- Legislation was approved this year allowing landowners who hire a scientific consultant to determine what qualifies as a stream on their property. They could then rely on that determination if they develop the land, unless the state challenges them within 30 days. The bill also calls for training for those who issue violations to make sure they are highly qualified to make determinations based on scientific results. (*STATUS: [SB 632](#) / [HB 615](#) / [PC 464](#) / DOE: upon becoming law*) *sponsor: Southerland*

## Health

**Budget cuts** -- The administration's proposed budget cuts to health was a key issue this year; especially those that would have effected some of Tennessee's most vulnerable citizens. Through the vigilance of the Senate General Welfare, Health and Human Services Committee members, the administration restored some of the most critical cuts. These included adding back \$5 million in support grants for mental health, \$10 million for Mental Health Safety Net activities, \$4.9 million in grants for the coordinated school health program and \$4.5 million more for the Department of Children's Services to help dependent and neglected children. It also included cuts made in the governor's budget to group homes and children's services statewide.

**Long term care** -- Legislation was approved this year as a second step to last year's efforts to provide additional choices to those who require long term care services. The bill is a product of the legislature's Long Term Care Study Committee. Last year the General Assembly passed major legislation that set up the basic structure of long term care in Tennessee, which includes more options for senior citizens to receive home- and community-based services. That legislation worked to give elderly and disabled Tennesseans more long term care options, including simplifying access to home and community-based services and increasing the number of people able to stay at home for long-term care needs through the state's TennCare program.

This "second step" legislation provides for the licensure of level two facilities, which are greatly needed in Tennessee. Level two facilities are those with acute care needs,

including services to patients that need ventilators or those with acute brain injuries. The legislation starts the ball rolling for rules and regulations to be formulated on these level two facilities as soon as possible. Next year, the General Assembly is expected to implement the level one facility licensure as the legislature continues to complete the structure of this plan to give senior citizens and the disabled more long term care options. Before passage of last year's long term care reform, Tennessee was 47<sup>th</sup> in the nation in providing home- and community-based services to these citizens. (*STATUS: [SB 2275](#) / [HB 2282](#) / transmitted to gov 6/19 / DOE: for rulemaking July 1, 2009 / otherwise Jan. 1, 2010*), *sponsors: Kyle, Finney L, Burks, Yager, Faulk, Jackson, Crowe, Black*

***Medical Malpractice Reform*** – Significant legislation approved by the General Assembly this year provides clarification and improvements to Tennessee's new Medical Malpractice Reform law passed in 2008. The revisions make it clearer for plaintiff's bringing suits and the health care providers in defending those claims.

One provision clarifies how the 60-day notice is given under the 2008 law. This is the pre-filing notification prior to filing a complaint to each medical provider who may be named in a medical malpractice action. It also provides that the statutes of limitation and repose be extended from 90 to 120 days. This means a complaint must be filed by the plaintiff's attorneys within 120 days to attest that they have consulted with a medical expert who is competent to testify in a Tennessee court and has reviewed the medical records or any other pertinent information.

In addition, the bill clarifies the Certificate of Good Faith must be filed at the filing of the complaint rather than within 90 days of that filing. Medical experts must declare that there is a good faith basis to maintain the malpractice action, and the defendant is responsible for following a similar procedure when alleging that a non-party is responsible.

Tennessee's new Medical Malpractice Reform law has been very successful in reducing lawsuits according to the statistics released in May showing the number of actions filed since implementation of the law in 2008. A comparison of the last quarter of 2008 with the same period in 2007 shows medical malpractice lawsuits have dropped from 143 to only 28. The first quarter of 2009 compared to the previous year shows similar results with 130 cases in 2008 as compared to 56 cases in 2009. Previously, Tennessee had been declared a medical liability "Crisis State" by the American Medical Association. (*STATUS: [SB 2109](#) / [HB 2233](#) / [PC 425](#) / DOE: Most sections apply July 1, 2009*) *sponsors: Overbey, Norris, Finney*

***Health / Mental Health / Crisis Services*** -- The full Senate and House has approved legislation seeking to ensure that crisis services continue to be available for mentally ill citizens. The bill requires the Department of Mental Health and Developmental Disabilities to coordinate with other departments and agencies of state government to make sure that services for persons in psychiatric emergencies include a 24-hour, seven-day-a-week toll free telephone number, and walk-in triage screening, assessment, intervention and follow-up care. It also calls for access to in-house crisis care. (*STATUS:*

[SB 441](#) / [HB 1669](#) / [PC 404](#) / *DOE: upon becoming law*) sponsor: *Overbey, Herron, Tracy, Marrero, Burks*

***Safety Net for mentally ill*** -- Legislator approved a new law this year to clarify and help protect safety net services for Tennesseans with serious and persistent mental illness who have been disenrolled from TennCare. The bill, which was endorsed by the Coalition for Mental Health and Substance Abuse Services, enables the state to provide safety net services to about 29,000 mentally ill adults who are uninsured and whose income level is at or below 100 percent of the federal poverty level. The legislation puts language into Tennessee law to clarify the benefits provided to serious and persistently mentally ill citizens and identify the population served with these minimal services to strengthen the program. Such services include needed medication and follow-up medical care, among other services. (*STATUS: SB 1538 / HB 1551 / [PC 95](#) / DOE: July 1, 2009*) sponsor: *Burchett, Marrero, Burks*

***Division of Intellectual Disabilities*** – Legislation to rename the state’s Division of Mental Retardation Services the “Division of Intellectual Disabilities” has received final approval under legislation passed this year. The initiative began with Special Olympics and other advocates for intellectually challenged individual leaders to change any derogatory use of the word “retardation” from the country’s vocabulary, beginning with references in government programs or services. The bill was supported by the Department of Mental Retardation Advisory Council which is made up of disability advocates, family members, providers, and consumers who voted in favor of supporting this initiative earlier this year. Due to cost factors, the name of the Division will be changed as new volumes of Tennessee’s laws are replaced and supplements are published. (*STATUS: [SB 1121](#) / [HB 1275](#) / [PC 477](#) / DOE: upon becoming law*) sponsors: *Yager, Overbey, Black, Ketron, Marrero, Burks, Ford*

***Health / Home health care*** – The General Assembly approved legislation to allow home health nurses or aides to accompany a recipient outside the home during the course of delivery of prior-approved services. The bill allows aides or nurses to accompany their patients to places like the doctor’s office or church. Currently services are banned unless they are in a hospital or at home. Additional visits or hours of care would not be approved for coverage, and services would be limited to what the recipient would be entitled to if provided exclusively at the recipient’s place of residence. (*STATUS: [SB 851](#) / [HB 1114](#) / [PC 471](#) / DOE: July 1, 2009*) sponsors: *Black, Johnson, Woodson, Ford, Gresham, Harper, Marrero, Tracy*

***Preferred Provider Organization Transparency Act*** – This year’s legislative action saw passage of the “Preferred Provider Organization Transparency Act.” The bill makes sure that health care providers who contract with health insurance plans have full knowledge of any assignment of their contract to entities associated with the insurance company with whom they would be paid. Under the bill, the third party would be required to inform the contracting health care provider of a Web site on which they may get information about any changes in the health plan status. This includes to whom the third party has granted access to the provider's health care services and contractual discounts. The bill will also help doctors know to whom they can address any problems. (*STATUS: [SB 693](#) / [HB 1907](#) /*

[PC 466](#) / DOE: January 1, 2010 (shall apply to provider network contracts entered into, renewed or materially amended on or after that date) sponsor: Southerland

**Charitable Clinics** – Charitable healthcare clinics that receive a nominal fee would receive protection from liability for civil damages under legislation approved this session. The legislation seeks to help the clinics find volunteer healthcare providers at a time of high unemployment when these facilities are receiving an influx of new patients. Currently only free clinics receive the immunity. (STATUS: [SB 1907](#) / HB 1545 / transmitted to gov 6/19 / DOE: upon becoming law) sponsor: Norris, Marrero, Overbey, Tracy, Crowe, Southerland, Stanley, Woodson, Burchett, McNally, Yager, Watson, Burks

**Protection for Community Action Agencies** -- The full House and Senate approved legislation to add Community Action Agencies to the definition of a governmental entity under the Tennessee's Governmental Tort Liability Act. The measure recognizes Community Action Agencies in the same way it does Human Resources Agencies, which are also quasi-governmental agencies that perform the same type of function but do not receive protection under Tennessee law. There are 20 community action agencies and six non-profit organizations in Tennessee which served 23,000 families, or 300,000 individuals last year through the Community Service Block Grant Programs and the Head Start Programs in Tennessee. (STATUS: [SB 1327](#) / HB 1409 / [PC 206](#) / DOE: upon becoming law) sponsor: Yager Burks, Black

**Drug abuse** -- Lawmakers have approved legislation that requires all entities that dispense medications to have access to the controlled substance database by January 1, 2010. The bill is designed to cut down on prescription drug abuse by providing information to those prescribing and dispensing the drugs.

The Tennessee Board of Pharmacy began accepting prescription information into the Controlled Substance Monitoring Database on December 1, 2006. The database, which is maintained by the Department of Health, includes data on controlled substance prescriptions of schedule II-V drugs. The database includes who the prescribing practitioner is, who filled the prescription, basic patient information, and the name and form of medication that the patient received.

Only those persons authorized by law can access the database to assist in determining treatment history and to ensure a patient is not fraudulently seeking controlled substances. This bill makes sure that those prescribing and dispensing drugs have electronic access to the controlled substance database upon providing health care services to a patient potentially receiving a controlled substance. (STATUS: [SB 224](#) / HB 151 / [PC 228](#) / DOE: January 1, 2010) Sponsor: Stanley, Burks

## Immigration

**Immigration bills** -- Several bills addressing illegal immigration were approved on the Senate floor and in committees this year. Senate Republicans have a series of bills to continue the fight for common-sense illegal immigration reform in Tennessee. This

year's efforts build on action taken by the 105<sup>th</sup> General Assembly, which included the Memorandum of Understanding law to help state and local police deport illegal aliens, a separate measure ensuring employers receive proper identification before hiring, and a new law cracking down on those who transport illegal aliens into the state.

***English Initiative*** – Legislation was adopted this year that calls for the Department of Labor and Workforce Development, in conjunction with the Department of Education, to establish and administer a grant program called the "We Want to Learn English Initiative." The initiative is designed to provide resources for immigrants and refugees in Tennessee to learn English. (STATUS: [SB 1745](#) / [HB 1648](#) / [PC 366](#) / DOE: upon becoming law) sponsor: *Ketron*

***Sanctuary Cities*** -- The General Assembly approved a bill this year aimed at preventing any city in Tennessee from becoming a “sanctuary city” for illegal aliens. “Sanctuary city” is a term given to a city in the United States that follows certain practices to protect illegal aliens. Thirty-eight cities in the U.S. have been recognized as sanctuary cities, but many sources have identified over 200 city or county governments nationwide as having practiced such policies.

The measure prohibits local governments, or the head of such localities, from passing any ordinances or policies that allow for a sanctuary city to be located in Tennessee. The bill is designed to be a pre-emptive strike to guard against the adoption of any policies to protect those who are in the United States illegally. (STATUS: [SB 1310](#) / [HB 1354](#) / [PC 477](#) / DOE: September 1, 2009) sponsor: *Tracy, Gresham, Johnson*

***Fake IDs*** -- Lawmakers also approved a measure that would make it a Class A misdemeanor offense to knowingly provide, transfer or submit a fake identification for the purpose of obtaining or maintaining employment. The new law makes production or use of each false identification document a separate offense under Tennessee law if it is determined that any person in connection with the violation is not legally present in the United States and require the court to notify the U.S. Department of Homeland Security. (STATUS: [SB 294](#) / [HB 302](#) / [PC 155](#) / DOE: July 1, 2009) sponsors: *Johnson, Black*

## **Military / Veterans**

Numerous bills were passed this year to honor veterans and those who serve our state and nation in the military. Tennessee has the 6<sup>th</sup> largest National Guard in the U.S, with a 72 percent re-enlistment rate.

***Military / Personal Rights Protection Act*** -- Legislation designed to protect soldiers from having their names or likeness used in anti-war activities without permission was approved during the 2009 legislative session. The new law allows individuals to recover three times the amount of damages plus attorneys fees, for knowingly using or infringing on the rights of an active member of the armed forces in violation of Tennessee's “Personal Rights Protection Act.”

The legislation comes after several violations were reported, including T-shirts sold on the Internet using the names of about 1700 soldiers. The T-shirts contained defaming information about the country with the name of soldiers on the back. (STATUS: [SB 836](#) / [HB 1707](#) / [PC 359](#) / DOE: upon becoming law) sponsors: McNally, Burchett, Barnes, Beavers, Berke, Black, Bunch, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Ketron, Kyle, Marrero, Norris, Overbey, Southerland, Stanley, Stewart, Tate, Tracy, Watson, Yager, Mr. Speaker Ramsey

**Soldier Heroes** – The General Assembly voted this year to send Congress a resolution asking that an initiative be adopted to honor the wishes of soldiers regarding the disposition of their remains if they die in service to their country. The initiative, called the “Honor the Written Intent of our Soldier Heroes Act,” would amend a federal law that prohibits a service member from designating a person other than a surviving spouse, blood relative or adoptive relative to direct the disposal of the service member’s remains (STATUS: [SJR 352](#) / signed by gov 6/25) sponsors: Woodson, Gresham, Marrero

**Military / Honoring Heroes** – Another measure approved this year will honor soldiers who die in the line of duty. The legislation requires that, if members of the Tennessee National Guard die in the line of duty, the Governor shall proclaim a day or mourning in their honor and the names of the deceased members of the armed forces shall be recorded in the journal of the Senate and House of Representatives. The legislation also requires that flags be flown at half-mast to honor these soldiers who make the ultimate sacrifice for their state and country. (STATUS: [SB 1647](#) / [HB](#) / [PC 169](#) / DOE: upon becoming law) sponsor: Gresham, Barnes, Overbey, Crowe, Marrero

**Family law / soldiers** -- A bill allowing military personnel who have child visitation rights under a divorce decree to transfer those rights to a relative when he or she is sent overseas passed this year. The bill authorizes a court to grant a parent's petition to assign visitation rights to a relative if the court finds that the visitation would be in the child's best interests. (STATUS: [SB 1267](#) / [HB 804](#) / [PC 442](#) / DOE: July 1, 2009) sponsor: Bunch

**Veterans / Education** – A study of the tuition relief program for veterans will be established under a bill meeting the approval of the legislature. The bill requires the Tennessee Higher Education Commission (THEC) with the assistance of the Tennessee Board of Regents (TBR), the University of Tennessee (UT), and the Tennessee Student Assistance Corporation (TSAC), to look at programs that have been enacted in other states and report back on the feasibility of establishing such programs in Tennessee. (STATUS: [SB 1693](#) / [HB 1219](#) / [PC 220](#) / DOE: upon becoming law) sponsors: Southerland, Barnes, Burks

**Education / Troops to Teachers** – Legislation was approved this year directing the Department of Education to develop an alternative program for former community college military instructors to obtain a license to teach in Tennessee schools. The legislation, which is modeled after a Florida law, paves the way for those who have served their country to continue to serve their community by teaching in our schools. Tennessee already receives funding from the U.S. Department of Defense to help with coursework and financial needs for former military service employees to get their

teaching credentials. The Department of Education will utilize this legislation to assist with those efforts. (STATUS: [SB 1703](#) / [HB 1487](#) / [PC 221](#) / DOE: Upon becoming law) Sponsor: Overbey, Stewart, Berke, Watson

**Elections / Military** – Finally, the General Assembly voted to make it easier for those serving overseas to access and return the necessary documents to vote absentee. In the last election, many Tennesseans in the military serving overseas requested that they be allowed to send their scanned documents by email because they did not have access to a fax in Iraq and Afghanistan. (STATUS: [SB 1420](#) / [HB 1421](#) / [PC 218](#) / DOE: July 1, 2009) Sponsors: Ketron, Ramsey

## Roads and Rules of the Road

**Tennessee Transportation Infrastructure Fund** -- Legislation that provides a vehicle for local governments to finance and complete local transportation projects was approved this year. The bill gives local governments the option of applying for a low interest loan for eligible infrastructure projects with flexible repayment terms. The State Transportation Infrastructure Fund also lets Tennessee apply for a portion of \$200 million in stimulus funds recently made available through the American Recovery and Reinvestment Act.

The state formed an infrastructure bank in 1998 within the Department of Transportation to capitalize on funds available for pilot projects. However, only one project has been financed by the bank since that time, even though there are about \$2 million in funds available.

The legislation places the Infrastructure Fund under the purview of the Tennessee Local Development Authority (TLDA). Prior to reaching the TLDA, applications will be reviewed by the Commissioner of the Tennessee Department of Transportation.

Thirty-three states have infrastructure banks, with two-thirds having a board which is responsible for project approval and oversight. (STATUS: [SB 2120](#) / [HB 2186](#) / signed by gov 6/25 / DOE: July 1, 2009), Sponsors: Norris, Tracy

**Dedicated Road Fund** -- The General Assembly has approved a bill that maintains Tennessee's dedicated road fund by prohibiting the diversion of gas tax money through the state's appropriations bill (budget). Previously, the dedicated road fund could be diverted simply through a line in the appropriations bill, which is a much easier route to raid the funds. Over the last several years, \$280 million in road funds have been funneled from the gas tax to meet other state government expenditures, leading to some of the problems Tennessee has experienced with road funding needs.

The new law requires authorization through separate legislation to divert gas tax revenues that are dedicated for road funds. The measure puts Tennessee back in the position it was prior to 2004 and restores the appropriate checks and balances to ensure that any

diversion of the funds are fully meted out through the normal legislative process. (STATUS: [SB 1309](#) / [HB 1311](#) / [PC 197](#) / DOE: July 1, 2009) sponsor: Tracy, Norris, Black

**Toll Road expansion** – Legislation was approved that authorizes TDOT to adopt two new highway projects or two major bridge projects under the pilot program established by the Tennessee Tollway Act. (STATUS: [SB 1](#) / [HB 1](#) / [PC 54](#)) sponsor: Watson

**Texting while driving** – In action on rules of the road this year, the legislature voted to ban “texting while driving.” The bill prohibits sending or reading text messages on public roads and highways while the driver is operating a motor vehicle in motion.

Over two-thirds of those under the age of 24 who were polled have admitted to sending text messages while driving. Studies show that drivers of any age who text behind the wheel swerve out of their lane, with many running into head-on traffic.

Law enforcement officials say the bill specifically banning texting will give them the tools to enforce banning this form of distracted driving. Under the legislation, a violation would be a Class C misdemeanor punishable by a fine of \$50.00. The legislation also prohibits the Department of Safety from assigning a point value for the driver’s license suspension or revocation for violation under the proposed law.

An amendment deletes certain emergency personnel from the ban. (STATUS: [SB 393](#) / [HB](#) / [PC 201](#) / DOE: July 1, 2009) sponsors: Tracy, Ketrone, Ford

**Rules of the Road** – Legislation adding two dangerous traffic violations to the list of current violations which are penalized under Class A and Class B misdemeanors has been approved. The violations include crossing a double yellow line to hit another vehicle head-on and cutting off a vehicle while passing. The penalty is a Class A misdemeanor if another person is killed and a Class B misdemeanor if they are seriously injured. (STATUS: [SB 289](#) / [HB 253](#) / [PC 342](#) / DOE: July 1, 2009) sponsor: Beavers

## ⊕ **Second Amendment Rights**

This year, the General Assembly passed several bills that uphold the U.S. Constitution’s Second Amendment right to bear arms. Second amendment rights advocates have worked for the past two decades for restoration of their rights. Tennessee's Constitution also guarantees that “the citizens of this State have a right to keep and to bear arms.” Following are some of the bill passed this year restoring the rights of law-abiding citizens to own and carry firearms.

**Right to Carry / Restaurants** – State lawmakers approved a bill, and reaffirmed that vote by overriding the governor’s veto, to allow law-abiding handgun permit holders to “carry” into restaurants serving alcohol as long as the owners of the premises have not posted notification that they are banned. Those who are in possession of a handgun are already prohibited from consuming alcohol or face a Class A misdemeanor, which carries

a \$2,000 fine and up to 11 months and 29 days in jail. There are 220,000 gun carry permit holders in Tennessee. Thirty-seven states allow legal permit holders to carry into locations that serve alcohol. (STATUS: [SB 1127](#) / [HB 962](#) / [PC 339](#) / DOE: June 1, 2009) sponsor: Jackson, Norris, Gresham, Beavers

**Parks** – Legislation passed this session which will allow legal gun carry permit holders to possess a firearm in state or federal parks in Tennessee. The bill also allows local government bodies to maintain control of concealed carry within local parks. According to a report from the U.S. Department of Interior, there were 8 murders, 43 forcible rapes, 57 robberies and 274 instances of aggravated assault in parks nationwide in 2007. In January, the federal government lifted a regulation that banned guns in national parks and wildlife refuges. (STATUS: [SB 976](#) / [HB 716](#) / [PC 428](#) / DOE: upon becoming law on state or federal government property and on September 1, 2009 for the purposes of municipalities or counties) sponsors: Beavers, Faulk, Crowe, Gresham

Similarly, the legislature approved a bill extending those privileges to carry into wildlife refuges, public hunting areas, wildlife management areas or national forest land. (STATUS: [SB 1519](#) / [HB 961](#) / transmitted to gov 6/30 / DOE: upon becoming law) sponsors: Burchett, Jackson, Johnson, Beavers, Tracy, Gresham

**Confiscation of Weapons / Martial law** -- In other action involving firearms, legislation limiting the power of the government to confiscate firearms and restrict the sale of ammunition during martial law was approved. The bill prohibits the confiscation of weapons from law-abiding citizens or restricting the ability to purchase guns and ammunition during times of martial law. The law already makes that provision in cases of a natural disaster or declared emergency. (STATUS: [SB 1992](#) / [HB 1778](#) / [PC 288](#) / DOE: upon becoming law) sponsors: Johnson, Ketron, Gresham, Faulk, Yager, Norris, Beavers, Stanley, Tracy, Watson, Crowe, Southerland, Woodson, McNally, Bunch, Burchett

**Thumbprint** – Another bill approved this year regarding firearms deletes the current requirement for a gun buyer to provide a thumbprint as part of the background check process. Tennessee is the only state in the nation that requires a thumbprint from gun permit applicants. Since the 1998 enactment of Tennessee's conceal and carry law, the Tennessee Bureau of Investigation has only asked for one thumbprint due to a challenge from a person who was denied the right to purchase a firearm and that print was smudged and unusable. (STATUS: [SB 554](#) / [HB 254](#) / [PC 102](#) / DOE: July 1, 2009) sponsors: Norris, Crowe

**Instructors** -- Lawmakers also approved a measure to clarify that neither the state nor an instructor or employee of a department-approved handgun safety course is authorized to require an applicant for a handgun carry permit to furnish or reveal private identifying information. This includes information regarding any handgun the applicant owns, possesses, or uses during the safety course, or the serial number of the weapon.

The bill was filed in response to an incident late last year, when the Department of Safety sent letters to all firearms instructors requiring them to complete and return a roster of students and to provide information on each student including the name of the firearm owner, the name of the student using the firearm, and the make, model, and serial number

of firearms used. (STATUS: [SB 32](#) / [HB 46](#) / [PC 101](#) / DOE: *upon becoming law*) sponsors: Tracy, Beavers, Stewart, Berke, Gresham, Burks, Crowe, Norris and Mr. Speaker Ramsey

**Law enforcement** -- Finally, the legislature approved a new law which allows retired full time commissioned police officers access to law enforcement shooting ranges when they are not being used by personnel. (STATUS: [SB 275](#) / [HB 234](#) / [PC 430](#) / DOE: *upon becoming law*) sponsor: Ketron

**Tenth Amendment** -- The Tennessee Firearms Freedom Act was passed this year stating that all firearms sold and contained in Tennessee are not subject to federal regulations. This bill addresses the increasing threats to state sovereignty by the federal government through attempts to regulate intra-state commerce. (STATUS: [SB 1610](#) / [HB 1796](#) / [PC 435](#) / DOE: *upon becoming law*) sponsors: Beavers, Jackson, Gresham, Norris and Mr. Speaker Ramsey

## ⊛ Wine

**Wine / Shipping** – Two bills passed this year regarding wine sales and shipping. The first one allows consumers to ship wine from wineries to their homes. Previously, it was a felony under Tennessee law to transport wine across state lines. This legislation allows wineries to ship up to three cases of wine per year to Tennessee consumers provided they have license.

The second new law regarding wine sales allows citizens in the state to purchase up to five cases of wine from out-of-state wineries who have a Tennessee license and transport them back across state lines. The legislation corrects the constitutional issues set forth by a federal court case that threatens to end the sale of wine from Tennessee wineries. Wineries are a significant agricultural industry in Tennessee with \$139 million in sales in 2007. (STATUS: [SB 166](#) / [HB 1155](#) / [PC 348](#) / DOE: *Rulemaking: upon becoming law, otherwise July 1, 2009*) sponsors: Stanley, Ketron, Johnson; (STATUS: [SB 944](#) / [HB1549](#) / [PC 273](#) / DOE: *upon becoming law*) sponsors: Overbey, Ketron, Faulk, Yager, Stanley

## ⊛ OTHER

**Sovereignty** – The Tennessee General Assembly joined 28 other states this year that, by June, had approved resolutions claiming sovereignty under the Tenth Amendment to the Constitution of the United States.” The measure is designed to send Congress a message that the federal government has overstepped its Constitutional bounds by mandating a massive amount of federal policies upon the states in violation of the Bill of Rights.

The resolution states that the federal government was created by the states specifically to be an agent of the states, not vice-versa. It was such an important point with the founders that they specifically provided for this sovereignty in our Constitution.”

The resolution also points out a 1992 U.S. Supreme Court ruling in *New York v. United States*, stating Congress may not commandeer the legislative and regulatory processes of the states.

The resolution concludes by providing that a “Committee of Conference and Correspondence” be appointed by the Speaker of the House and Senate charged with working jointly with other states to enumerate the abuses of authority by the federal government and to seek repeal of the assumption of powers and imposed mandates. (STATUS: [HJR 108](#) / signed by gov. 6/23)

**Autopsies** -- Legislation aiming to protect families from having to deal with the unauthorized release or publication of autopsy pictures of a family member was passed during the session. The bill strengthens penalties against those who violate the law by creating a new Class A misdemeanor offense for dissemination by any person of any autopsy materials without written consent of the deceased's next-of-kin or personal representative.

The legislation clarifies that the offense applies to the distribution of any "autopsy photographs, videotape or other visual image or any autopsy audio recording." The bill is designed to protect the rights of the deceased, and keep the family from additional suffering due to the insensitivity of those who would disseminate an autopsy. (STATUS: [SB 1517](#) / [HB 1527](#) / [PC 276](#) / DOE: July 1, 2009) *Burchett, Ford, Marrero, Black, Burks*

**Silver Alert System** -- Legislation creating a “Silver Alert System” that would work like the “Amber Alert System” to help locate missing individuals who have Alzheimer’s disease or related dementias was approved by the General Assembly in the last hours of the legislative session. The bill calls for local law enforcement agencies to coordinate with non-profit organizations such as “A Child is Missing” or the “Alzheimer’s Association” to aid in their efforts to put the program in place. The Silver Alert would be triggered if that missing person is believed to be in danger because of environmental or weather conditions or is thought to be unable to return to safety without assistance. (STATUS: [SB 532](#) / [HB 346](#) / signed by H. Speaker 6/29 and S. Speaker 6/30 / DOE: July 1, 2009 ) sponsors: *McNally, Finney L, Yager, Faulk, Berke, Stewart, Henry, Burchett, Black, Haynes, Herron, Kyle, Norris, Overbey, Watson, Woodson, Ford, O., Burks*

**Safe Haven / Infants** – State lawmakers voted to add fire stations and police stations to the list of locations that newborns can be taken by distressed mothers without fear of prosecution for abandonment. Currently, the infants must be taken to a hospital or 24-hour emergency clinic. This legislation adds fire stations and police stations as well. The goal of the safe haven legislation is to set up a system that focuses on saving the baby's life, rather than the mother's liability. (STATUS: [SB 1714](#) / [HB 1714](#) / [PC 257](#) DOE: upon becoming law) sponsors: *Overbey, Marrero, Finney, Burks, Harper*

**Vacancies / County Commissioners** -- The General Assembly passed legislation to correct a problem arising from an interpretation of a 2008 law that revised procedures for filling vacancies on a county commission. That law required a county commissioner to resign from office if they accept an appointment made by that governing body. Some

attorneys have interpreted this to include any appointments made by the county commission, including internal appointment to boards and committees, such as budget and finance committees, beer boards, ethics committees etc. The legislation clarifies that it was not the intent of the 2008 law to prevent a county commissioner from serving on any board or commission if he or she could lawfully serve on that board prior to the act. (STATUS: SB 1712 / HB 1168 / [PC 14](#) / DOE: upon becoming law) sponsors: Overbey, Yager

**Publication / Cost Savings** -- The House and Senate has, for many years, published a weekly “Legislative Record” that contains every bill number and a short summary of each piece of legislation, and made one available to all 99 members. Because the cost for producing the books is \$90,000, and because the information is now available online, legislation was passed this year that ends the publication for cost-saving reasons. (STATUS: SB 2211 / HB 2357 / [PC 225](#) ; DOE: upon becoming law) sponsor: Faulk

**Restaurant Menus** – The General Assembly voted this year to ban non-elected local government entities or boards from imposing requirements on restaurants to provide nutritional information on menus. The concern is that some communities will impose different standards and significantly increase costs to small restaurant owners. In March, Davidson County’s Metro Board of Health voted to enact guidelines on providing nutritional information to customers for certain restaurants, even though Congress is considering the Federal LEAN Act. That act would implement a national standard generally accepted by restaurant owners to provide nutritional information to customers. Adopting a county-by-county approach to the disclosure of nutritional information increases costs to restaurants, many of whom are small business owners. (STATUS: [SB 1092](#) / HB 950 / transmitted to gov 6/19 / DOE: upon becoming law), sponsors: Stanley, Black

**Dogs / outside cafes** -- Dogs will be allowed in outside restaurants in Tennessee under legislation that passed this year. The measure allows cities with a population of at least 100,000 to establish an ordinance permitting dogs in outside dining areas. (STATUS: [SB 605](#) / HB 1603 / signed by gov 6/25 / DOE: July 1, 2009) sponsor: Burchett, Woodson, Ford

**Election of Secretary of State, Treasurer and Comptroller** -- The opening week of the 106<sup>th</sup> General Assembly was marked by election of the state's constitutional officers, the secretary of state, treasurer and comptroller. The state’s constitution provides that the legislature select the three offices in a joint session during the organization session of each General Assembly. Republicans in the General Assembly have a 69 to 64 majority over Democrats after the November election, providing the first opportunity in 140 years to elect the officers. Elected and sworn in were Tre Hargett as Secretary of State, David Lillard as State Treasurer, and Justin Wilson as Comptroller. Hargett will serve a four-year term, while Lillard and Wilson will serve two-year terms as provided by the Constitution.

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