MONDAY, MAY 5, 2003

THIRTY-SIXTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 5:00 p.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Peggy Clark of Faith Church in Nashville, Tennessee, a guest of Senator Harper.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

The roll call was taken with the following results:

Present 32

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

COMMUNICATION

May 5, 2003

Lt. Gov. John Wilder
1 LP
Nashville, TN 37243

Dear Gov. Wilder:

I will be unable to attend the session today. The storms last night rendered considerable damage to my home which I must attend to. Please excuse my absence and have this letter spread upon the Senate Journal.

Respectfully,

/s/ Curtis Person, Jr.

APPROVED: Lieutenant Governor
John S. Wilder

PRESENTATION

Senator Trail presented **Senate Joint Resolution No. 28** to the family of Lytle "Jug" Landers of the State Election Commission.

INTRODUCTION OF BILLS

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

Senate Bill No. 2030 by Senator McNally.
Loudon County -- Subject to local approval, creates Family Court. Amends Chapter 57 of the Private Acts of 1959.

Senate Bill No. 2031 by Senator Beavers.
Carthage -- Subject to local approval, enacts hotel/motel tax.

HOUSE BILLS ON FIRST CONSIDERATION

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

House Bill No. 66 -- Correctional Programs -- Requires facilities that house alternatively sentenced criminal offenders to notify chief law enforcement officer in county where facility exists of identities, criminal records and locations of such offenders. Amends TCA Title 40.

House Bill No. 718 -- Municipal Government -- Permits municipal utility systems to accept and distribute voluntary contributions for charitable purposes through programs such as round-up programs. Amends TCA Title 7.

House Bill No. 806 -- Criminal Procedure -- Adopts "National Crime Prevention and Privacy Compact". Amends TCA Title 38.

House Bill No. 1080 -- Child Custody and Support -- Directs court to consider custodial parent failure to adhere to visitation order or visitation provisions in parenting plan as grounds for change in custody in favor of non-custodial parent. Amends TCA Title 36.

House Bill No. 1252 -- Mental Retardation -- Authorizes sale of unused property of state developmental centers with deposit of proceeds in special trust fund earmarked for purposes of planning and developing mental retardation services. Amends TCA Title 12, Chapter 2.

House Bill No. 1403 -- Motor Vehicles -- Creates Class A misdemeanor offense for knowingly installing or reinstalling any object in lieu of air bag designed in accordance with federal regulations for specific make, model and year of vehicle to be used as part of inflatable restraint system.

House Bill No. 1504 -- Sunset Laws -- Office of business enterprise, June 30, 2009. Amends TCA Title 4, Chapter 26 and Title 4, Chapter 29.

House Bill No. 1519 -- Sunset Laws -- Review committee, June 30, 2009. Amends TCA Title 4, Chapter 29 and Title 12, Chapter 4.

House Bill No. 1528 -- Sunset Laws -- Commission for uniform legislation, June 30, 2009. Amends TCA Title 4, Chapter 9 and Title 4, Chapter 29.

House Bill No. 1552 -- Unclaimed Property -- Deletes references to obsolete unclaimed property provisions. Amends TCA Title 66, Chapter 29, Part 1.

House Bill No. 1853 -- Real Property -- Authorizes condominiums to have satellite dishes if not prohibited by local zoning or ordinances. Amends TCA Title 66, Chapter 27, Part 1.

House Bill No. 1946 -- Special License Plates -- Authorizes issuance of NASCAR new specialty earmarked license plates; allocates 50 percent of funds produced from sale thereof to Tennessee State Museum Foundation. Amends TCA Title 55, Chapter 4.

House Bill No. 2030 -- Public Records -- Clarifies that utility service providers' reports identifying areas vulnerable to terrorism or other unlawful disruptions of service are confidential. Amends TCA subsection 10-7-504(a)(21).

House Bill No. 2105 -- Portland -- Subject to local approval, sets term limit, appointing method, and age requirement for city judge. Amends Chapter 568 of the Private Acts of 1939; as amended.

SENATE BILLS ON SECOND CONSIDERATION

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

Senate Bill No. 2025 held on desk.

Senate Bill No. 2026 held on desk.

Senate Bill No. 2027 held on desk.

Senate Bill No. 2028 held on desk.

Senate Bill No. 2029 held on desk.

INTRODUCTION OF RESOLUTIONS

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

Senate Joint Resolution No. 378 by Senator Cooper.
Memorials, Academic Achievement -- Scarlette Hodge, Salutatorian, F.C. Boyd, Sr. Christian High School.

Senate Joint Resolution No. 379 by Senator Cooper.
Memorials, Academic Achievement -- Megan Hamblen, Valedictorian, F.C. Boyd, Sr. Christian High School.

Senate Joint Resolution No. 380 by Senator Cooper.
Memorials, Academic Achievement -- Amanda Stubblefield, Valedictorian, Warren County High School.

Senate Joint Resolution No. 381 by Senator Cooper.
Memorials, Academic Achievement -- Ashley Nunley, Valedictorian, Grundy County High School.

Senate Joint Resolution No. 382 by Senator Cooper.
Memorials, Academic Achievement -- Stacy Parkhurst, Salutatorian, Warren County High School.

Senate Joint Resolution No. 383 by Senator Cooper.
Memorials, Academic Achievement -- April Roberts, Salutatorian, Bledsoe County High School.

Senate Joint Resolution No. 384 by Senator Cooper.
Memorials, Academic Achievement -- T. Seth Tipps, Valedictorian, Highland Rim Christian Academy.

Senate Joint Resolution No. 385 by Senator Jackson.
Memorials, Academic Achievement -- Ginger Ellen Shupe, Valedictorian, Waverly Central High School.

Senate Joint Resolution No. 386 by Senator Jackson.
Memorials, Academic Achievement -- Blake Randall Curtis, Valedictorian, Waverly Central High School.

Senate Joint Resolution No. 387 by Senator Jackson.
Memorials, Academic Achievement -- Leslie Elaine Wallace, Valedictorian, Waverly Central High School.

Senate Joint Resolution No. 388 by Senator Jackson.
Memorials, Academic Achievement -- Rachel Watts, Valedictorian, Waverly Central High School.

Senate Joint Resolution No. 389 by Senator Jackson.
Memorials, Professional Achievement -- Bridgestone APM Plant.

Senate Joint Resolution No. 390 by Senator Kurita.
Memorials, Academic Achievement -- Mary Harlinger, Valedictorian, Cheatham County Central High School.

Senate Joint Resolution No. 391 by Senator Kurita.
Memorials, Academic Achievement -- Michelle L. Long, Salutatorian, Cheatham County Central High School.

Senate Joint Resolution No. 392 by Senator Crutchfield.
Memorials, Professional Achievement -- Billy Borchert, Business Manager of Plumbers & Pipefitters Local Union 572.

Senate Joint Resolution No. 393 by Senator Bryson.
Memorials, Interns -- Emil Congdon.

Senate Joint Resolution No. 394 by Senator Graves.
Memorials, Academic Achievement -- Holly Marie Fletcher, Salutatorian, Springfield High School.

Senate Joint Resolution No. 395 by Senator Graves.
Memorials, Academic Achievement -- Jared Fletcher Davidson, Valedictorian, Springfield High School.

Senate Joint Resolution No. 396 by Senator Cooper.
Memorials, Academic Achievement -- Brandi Noel Nation, Valedictorian, Van Buren County High School.

Senate Joint Resolution No. 397 by Senator Cooper.
Memorials, Academic Achievement -- Erin Bailey Deweese, Salutatorian, Van Buren County High School.

Senate Joint Resolution No. 398 by Senator Cooper.
Memorials, Academic Achievement -- Lora Marie Smith, Bledsoe County High School.

Senate Joint Resolution No. 399 by Senator Cooper.
Memorials, Academic Achievement -- John O'Connor, Valedictorian, Coffee County Central High School.

Senate Joint Resolution No. 400 by Senator Cooper.
Memorials, Academic Achievement -- Ericka Carlene Lundquist, Valedictorian, Cedars of Lebanon Academy.

Senate Joint Resolution No. 401 by Senator Cooper.
Memorials, Academic Achievement -- Terri House, Salutatorian, Coffee County Central High School.

Senate Joint Resolution No. 402 by Senator Cooper.
Memorials, Academic Achievement -- Brandon Dwayne Wanamaker, Salutatorian, Cedars of Lebanon Academy.

Senate Joint Resolution No. 403 by Senator Cooper.
Memorials, Academic Achievement -- Ginger Nicole Yarworth, Salutatorian, Grundy County High School.

Senate Joint Resolution No. 404 by Senator Cooper.
Memorials, Academic Achievement -- Keri J. Britcher, Salutatorian, Tullahoma High School.

Senate Resolution No. 71 by Senator Harper.
General Assembly, Confirmation of Appointment -- Walter Knestrick, Commissioner of Watkins Institute.

Senate Resolution No. 72 by Senator McNally.
Memorials, Interns -- Amanda Boles.

Senate Resolution No. 73 by Senator Fowler.
Memorials, Interns -- Casey Hinson.

Senate Resolution No. 74 by Senator Kurita.
Memorials, Academic Achievement -- Phillippe Lyles Winters Reed, Valedictorian, Clarksville High School.

Senate Resolution No. 75 by Senator Kurita.
Memorials, Academic Achievement -- Nina Ferrell, Valedictorian, Montgomery Central High School.

Senate Resolution No. 76 by Senator Kurita.
Memorials, Academic Achievement -- Jamie Lynn Bentley, Salutatorian, Houston County High School.

RESOLUTIONS LYING OVER

House Joint Resolution No. 443 -- Memorials, Congratulations -- Birchwood Coonhunters Association, 40th anniversary.

The Speaker announced that he had referred House Joint Resolution No. 443 to Committee on Calendar.

House Joint Resolution No. 450 -- Memorials, Personal Achievement -- Shane Spears, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 450 to Committee on Calendar.

House Joint Resolution No. 452 -- Memorials, Recognition -- Clarksville Gospel Quartet Convention.

The Speaker announced that he had referred House Joint Resolution No. 452 to Committee on Calendar.

House Joint Resolution No. 453 -- Memorials, Personal Achievement -- Dane Patrick Martin, Sound of America honor band.

The Speaker announced that he had referred House Joint Resolution No. 453 to Committee on Calendar.

House Joint Resolution No. 455 -- Memorials, Academic Achievement -- Jasmine Degroot, Valedictorian, Rockwood High School.

The Speaker announced that he had referred House Joint Resolution No. 455 to Committee on Calendar.

House Joint Resolution No. 456 -- Memorials, Academic Achievement -- Chabli Balcom, Valedictorian, Roane County High School.

The Speaker announced that he had referred House Joint Resolution No. 456 to Committee on Calendar.

House Joint Resolution No. 457 -- Memorials, Academic Achievement -- Gavin Button, Salutatorian, Roane County High School.

The Speaker announced that he had referred House Joint Resolution No. 457 to Committee on Calendar.

House Joint Resolution No. 458 -- Memorials, Academic Achievement -- Falin Gautz, Co-Salutatorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 458 to Committee on Calendar.

House Joint Resolution No. 459 -- Memorials, Academic Achievement -- Jennifer Brown, Co-Salutatorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 459 to Committee on Calendar.

House Joint Resolution No. 460 -- Memorials, Academic Achievement -- Emily Smithers, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 460 to Committee on Calendar.

House Joint Resolution No. 461 -- Memorials, Academic Achievement -- Jessica R. Clear, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 461 to Committee on Calendar.

House Joint Resolution No. 462 -- Memorials, Academic Achievement -- Robin Michelle Campbell, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 462 to Committee on Calendar.

House Joint Resolution No. 463 -- Memorials, Academic Achievement -- Kodi Morris, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 463 to Committee on Calendar.

House Joint Resolution No. 464 -- Memorials, Academic Achievement -- Savanna Kennedy, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 464 to Committee on Calendar.

House Joint Resolution No. 465 -- Memorials, Academic Achievement -- Ben Heath, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 465 to Committee on Calendar.

House Joint Resolution No. 466 -- Memorials, Academic Achievement -- Mandi Gipson, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 466 to Committee on Calendar.

House Joint Resolution No. 467 -- Memorials, Academic Achievement -- Ashleigh Asbury, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 467 to Committee on Calendar.

House Joint Resolution No. 468 -- Memorials, Academic Achievement -- Natalie Hunley, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 468 to Committee on Calendar.

House Joint Resolution No. 469 -- Memorials, Academic Achievement -- Tiffany Boshears, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 469 to Committee on Calendar.

House Joint Resolution No. 470 -- Memorials, Academic Achievement -- Angela Shears, Co-Valedictorian, Campbell County Comprehensive High School.

The Speaker announced that he had referred House Joint Resolution No. 470 to Committee on Calendar.

House Joint Resolution No. 471 -- Memorials, Personal Achievement -- Trenyce Cobbins, American Idol superstar.

The Speaker announced that he had referred House Joint Resolution No. 471 to Committee on Calendar.

Senate Joint Resolution No. 362 -- Memorials, Death -- Felice Bryant.

The Speaker announced that he had referred Senate Joint Resolution No. 362 to Committee on Calendar.

Senate Joint Resolution No. 368 -- Memorials, Public Service -- John and Sallie Werthing.

The Speaker announced that he had referred Senate Joint Resolution No. 368 to Committee on Calendar.

Senate Joint Resolution No. 369 -- Memorials, Academic Achievement -- Travis Cardwell, Valedictorian, Pleasant View Christian School.

The Speaker announced that he had referred Senate Joint Resolution No. 369 to Committee on Calendar.

Senate Joint Resolution No. 370 -- Memorials, Academic Achievement -- Christina Nicole Flatt, Salutatorian, Pleasant View Christian School.

The Speaker announced that he had referred Senate Joint Resolution No. 370 to Committee on Calendar.

Senate Joint Resolution No. 371 -- Memorials, Academic Achievement -- Amy Lawrence, Salutatorian, Pleasant View Christian School.

The Speaker announced that he had referred Senate Joint Resolution No. 371 to Committee on Calendar.

Senate Joint Resolution No. 372 -- Memorials, Interns -- Katie Roney.

The Speaker announced that he had referred Senate Joint Resolution No. 372 to Committee on Calendar.

Senate Joint Resolution No. 374 -- Memorials, Retirement -- W. C. "Bill" Moss, Tennessee Municipal Electric Power Association.

The Speaker announced that he had referred Senate Joint Resolution No. 374 to Committee on Calendar.

Senate Joint Resolution No. 375 -- Memorials, Professional Achievement -- Tommy Wilder, Conservation Farmer of the Year.

The Speaker announced that he had referred Senate Joint Resolution No. 375 to Committee on Calendar.

Senate Joint Resolution No. 377 -- Memorials, Professional Achievement -- *Herald-Citizen*, 100th anniversary.

The Speaker announced that he had referred Senate Joint Resolution No. 377 to Committee on Calendar.

Senate Resolution No. 54 -- Memorials, Academic Achievement -- Angel Jones, Salutatorian, Hillcrest High School.

The Speaker announced that he had referred Senate Resolution No. 54 to Committee on Calendar.

Senate Resolution No. 55 -- Memorials, Academic Achievement -- Christine Brough, Valedictorian, Ridgeway High School.

The Speaker announced that he had referred Senate Resolution No. 55 to Committee on Calendar.

Senate Resolution No. 56 -- Memorials, Academic Achievement -- Lakisha Richardson, Valedictorian, Whitehaven High School.

The Speaker announced that he had referred Senate Resolution No. 56 to Committee on Calendar.

Senate Resolution No. 57 -- Memorials, Academic Achievement -- Kristina Dean, Salutatorian, Woodale High School.

The Speaker announced that he had referred Senate Resolution No. 57 to Committee on Calendar.

Senate Resolution No. 58 -- Memorials, Academic Achievement -- Martin Brooks, Valedictorian, Westwood High School.

The Speaker announced that he had referred Senate Resolution No. 58 to Committee on Calendar.

Senate Resolution No. 59 -- Memorials, Academic Achievement -- Tamiko Carnes, Valedictorian, Kirby High School.

The Speaker announced that he had referred Senate Resolution No. 59 to Committee on Calendar.

Senate Resolution No. 61 -- Memorials, Interns -- Toby Dale Sells.

The Speaker announced that he had referred Senate Resolution No. 61 to Committee on Calendar.

Senate Resolution No. 62 -- Memorials, Academic Achievement -- Ashley Lauren Vaughn, Valedictorian, Northwest High School.

The Speaker announced that he had referred Senate Resolution No. 62 to Committee on Calendar.

Senate Resolution No. 63 -- Memorials, Academic Achievement -- Andrew Knowles, Salutatorian, Northwest High School.

The Speaker announced that he had referred Senate Resolution No. 63 to Committee on Calendar.

Senate Resolution No. 64 -- Memorials, Academic Achievement -- Jason Hinson, Valedictorian, Houston County High School.

The Speaker announced that he had referred Senate Resolution No. 64 to Committee on Calendar.

Senate Resolution No. 65 -- Memorials, Academic Achievement -- Andy Allen Ross, Valedictorian, Houston County High School.

The Speaker announced that he had referred Senate Resolution No. 65 to Committee on Calendar.

Senate Resolution No. 66 -- Memorials, Academic Achievement -- Tyler Morgan Powell, Valedictorian, Houston County High School.

The Speaker announced that he had referred Senate Resolution No. 66 to Committee on Calendar.

Senate Resolution No. 67 -- Memorials, Interns -- Dan Kashner.

The Speaker announced that he had referred Senate Resolution No. 67 to Committee on Calendar.

Senate Resolution No. 68 -- Memorials, Academic Achievement -- Adrianne Braggs, Salutatorian, Kirby High School.

The Speaker announced that he had referred Senate Resolution No. 68 to Committee on Calendar.

Senate Resolution No. 69 -- Memorials, Academic Achievement -- Ashley Cleaves, Salutatorian, Westwood High School.

The Speaker announced that he had referred Senate Resolution No. 69 to Committee on Calendar.

RECALL OF BILL

On motion of Senator Henry, **Senate Bill No. 1570** was recalled from the Committee on Calendar.

REFERRAL

On motion of Senator Henry, Senate Bill No. 1570 was referred to the Committee on Finance, Ways and Means.

MOTION

Senator Henry moved that Rule 83(8) be suspended for the purpose of placing **Senate Bills Nos. 17, 50, 52, 174, 217, 252, 283, 377, 412, 558, 606, 723, 822, 861, 958, 973, 978, 998, 1058, 1180, 1199, 1344, 1460, 1507, 1570, 1698, 1718, 1743, 1911 and 1922; and Senate Joint Resolutions Nos. 15, 127, 142, 144, 214 and 241** on the calendar for the Committee on Finance, Ways and Means for Wednesday, May 7, 2003, which motion prevailed.

MOTION

Senator Henry moved that the rules be suspended for the purpose of placing any bills that are referred to the Committee on Finance, Ways and Means prior to the committee meeting on Tuesday, May 6, 2003, be placed on the calendar for Wednesday, May 7, 2003, which motion prevailed.

MOTION

Senator Williams moved that Rule 83(8) be suspended for the purpose of placing **Senate Bill No. 1200** on the calendar for the Committee on Transportation for Wednesday, May 7, 2003, which motion prevailed.

MOTION

Senator Cohen moved that the schedule be amended for the purpose of holding the State and Local Government's Campaign, Ethics and Elections Subcommittee for Thursday, May 8, 2003, immediately after session, which motion prevailed.

MOTION

Senator McNally moved that Rule 83(8) be suspended for the purpose of placing **Senate Bills Nos. 1812 and 1024** on the calendar for the Committee on Education for Wednesday, May 7, 2003, which motion prevailed.

RECALL OF BILLS

On motion of Senator Beavers, **Senate Joint Resolutions Nos. 354 and 355** were recalled from the Consent Calendar.

WITHDRAWAL OF BILLS

On motion of Senator Beavers, Senate Joint Resolutions Nos. 354 and 355 were withdrawn from the Senate.

CONSENT CALENDAR NO. 1

House Joint Resolution No. 10 -- Naming and Designating -- "Childcare Workers Day", May 10, 2003.

House Joint Resolution No. 415 -- Memorials, Congratulations -- Town of Burns, 50th anniversary.

House Joint Resolution No. 422 -- Memorials, Sports -- Cloudland High School girls' basketball team.

House Joint Resolution No. 424 -- Memorials, Recognition -- Baker Buick.

House Joint Resolution No. 426 -- Memorials, Retirement -- Eva Ellis.

House Joint Resolution No. 427 -- Memorials, Interns -- James Vandiveer.

House Joint Resolution No. 428 -- Memorials, Public Service -- Marteza Frierson, Maury County Boys and Girls Club Youth of the Year.

House Joint Resolution No. 429 -- Memorials, Academic Achievement -- Lauren MacPherson, Salutatorian, Friendship Christian Academy.

House Joint Resolution No. 430 -- Memorials, Academic Achievement -- Melanie Whited, Valedictorian, Friendship Christian Academy.

House Joint Resolution No. 431 -- Memorials, Academic Achievement -- Nassrin El-Gosi, Salutatorian, Glencliff High School.

House Joint Resolution No. 432 -- Memorials, Academic Achievement -- Nathan Potter, Valedictorian, Glencliff High School.

House Joint Resolution No. 434 -- Memorials, Professional Achievement -- Cynthia Jones, Teacher's Hall of Fame.

House Joint Resolution No. 435 -- Memorials, Personal Achievement -- Jon Bagby, Eagle Scout.

House Joint Resolution No. 436 -- Memorials, Interns -- Katherine Haskel.

House Joint Resolution No. 437 -- Memorials, Professional Achievement -- Johnie Payton, Wilson County Schools Teacher of the Year.

House Joint Resolution No. 438 -- Memorials, Academic Achievement -- Sarah Heston, Salutatorian, Bolton High School.

House Joint Resolution No. 439 -- Memorials, Academic Achievement -- Holly Cary, Valedictorian, Bolton High School.

House Joint Resolution No. 440 -- Memorials, Academic Achievement -- Steven Allen, Salutatorian, Bartlett High School.

House Joint Resolution No. 441 -- Memorials, Academic Achievement -- Jessica King, Valedictorian, Bartlett High School.

House Joint Resolution No. 442 -- Memorials, Professional Achievement -- New Deal Tool and Die Company, 50th anniversary.

House Joint Resolution No. 444 -- Memorials, Professional Achievement -- Dr. Gene Lasley, 40 years as Pastor of Buffalo Ridge Baptist Church.

House Joint Resolution No. 446 -- Memorials, Sports -- Hendersonville High School cheerleaders.

House Joint Resolution No. 447 -- Memorials, Public Service -- DENSO Manufacturing, Senior Citizens Home Assistance Services Blount County Business of the Year.

House Joint Resolution No. 448 -- Memorials, Public Service -- Joe S. Ingram, Senior Citizens Home Assistance Services Person of the Year.

House Joint Resolution No. 449 -- Memorials, Death -- Joe Edward Gibson.

Senate Joint Resolution No. 121 -- Naming and Designating -- Designates songwriting as one of Tennessee's official art forms.

Senate Joint Resolution No. 310 -- Memorials, Government Officials -- Requests Carter County Commission to name drive between Hampton High School and its football field which runs from U.S. Highway 19E and First Avenue in Carter County "Rachel Clawson Drive".

Senate Joint Resolution No. 320 -- Memorials, Personal Occasion -- Former Senator Anna Belle Clement O'Brien, birthday.

Senate Joint Resolution No. 322 -- Memorials, Academic Achievement -- Brittney Diane Tucker, Cum Laude, Summertown High School.

Senate Joint Resolution No. 323 -- Memorials, Academic Achievement -- Sam Roberts, Summa Cum Laude, Lawrence County High School.

Senate Joint Resolution No. 324 -- Memorials, Academic Achievement -- Jacob Lee Patterson, Cum Laude, Summertown High School.

Senate Joint Resolution No. 325 -- Memorials, Academic Achievement -- Jennifer Hester, Summa Cum Laude, Lawrence County High School.

Senate Joint Resolution No. 326 -- Memorials, Academic Achievement -- Erin Elizabeth Surles, Cum Laude, Summertown High School.

Senate Joint Resolution No. 327 -- Memorials, Academic Achievement -- Carrie Lynn Newton, Cum Laude, Summertown High School.

Senate Joint Resolution No. 328 -- Memorials, Academic Achievement -- Krystle Frazier, Summa Cum Laude, Lawrence County High School.

Senate Joint Resolution No. 329 -- Memorials, Academic Achievement -- Sarah Curtis, Cum Laude, Summertown High School.

Senate Joint Resolution No. 330 -- Memorials, Academic Achievement -- Lauren Elizabeth Perry, Cum Laude, Summertown High School.

Senate Joint Resolution No. 332 -- Memorials, Academic Achievement -- Crystal Dawn Preslar, Summa Cum Laude, Summertown High School.

Senate Joint Resolution No. 333 -- Memorials, Academic Achievement -- Jared Bryce, Cum Laude, Summertown High School.

Senate Joint Resolution No. 334 -- Memorials, Academic Achievement -- Lydon Bergin, Magna Cum Laude, Summertown High School.

Senate Joint Resolution No. 335 -- Memorials, Academic Achievement -- Renee Fleeman, Summa Cum Laude, Summertown High School.

Senate Joint Resolution No. 336 -- Memorials, Academic Achievement -- Stephanie Daniel Troppello, Cum Laude, Summertown High School.

Senate Joint Resolution No. 337 -- Memorials, Academic Achievement -- Adria Eden Matney, Magna Cum Laude, Summertown High School.

Senate Joint Resolution No. 338 -- Memorials, Academic Achievement -- Carrie Elizabeth Meek, Summa Cum Laude, Summertown High School.

Senate Joint Resolution No. 339 -- Memorials, Academic Achievement -- Dustin Killen, Summa Cum Laude, Lawrence County High School.

Senate Joint Resolution No. 340 -- Memorials, Academic Achievement -- Becky Jo Scollard, Cum Laude, Summertown High School.

Senate Joint Resolution No. 341 -- Memorials, Academic Achievement -- Ryan Boyle, Cum Laude, Summertown High School.

Senate Joint Resolution No. 342 -- Memorials, Academic Achievement -- Anna Benson, Summa Cum Laude, Lawrence County High School.

Senate Joint Resolution No. 343 -- Memorials, Academic Achievement -- Alicia Masterson, Cum Laude, Summertown High School.

Senate Joint Resolution No. 344 -- Memorials, Academic Achievement -- Rachel Jones, Cum Laude, Summertown High School.

Senate Joint Resolution No. 345 -- Memorials, Academic Achievement -- Sara Suzanne Taylor, Cum Laude, Summertown High School.

Senate Joint Resolution No. 346 -- Memorials, Academic Achievement -- Rhett Boston Peters, Summa Cum Laude, Summertown High School.

Senate Joint Resolution No. 347 -- Memorials, Academic Achievement -- Ratasha Dial, Cum Laude, Summertown High School.

Senate Joint Resolution No. 348 -- Memorials, Academic Achievement -- Eric Johnson, Summa Cum Laude, Lawrence County High School.

Senate Joint Resolution No. 349 -- Memorials, Academic Achievement -- Alexander Hancock, Cum Laude, Summertown High School.

Senate Joint Resolution No. 350 -- Memorials, Academic Achievement -- Joshua Hamilton, Cum Laude, Summertown High School.

Senate Joint Resolution No. 351 -- Memorials, Academic Achievement -- Cecilia Cantina Oaks, Cum Laude, Summertown High School.

Senate Joint Resolution No. 352 -- Memorials, Academic Achievement -- Sheena Chastity Scott, Cum Laude, Summertown High School.

Senate Joint Resolution No. 353 -- Memorials, Academic Achievement -- Chad Dickey, Summa Cum Laude, Lawrence County High School.

Senate Joint Resolution No. 356 -- Memorials, Recognition -- 150th anniversary of Belle Meade Plantation and 50th anniversary of Nashville Chapter of APTA.

Senate Joint Resolution No. 358 -- Memorials, Academic Achievement -- Bertram Niegel Thompson, Valedictorian, Raleigh-Egypt High School.

Senate Joint Resolution No. 359 -- Memorials, Retirement -- Douglas E. Jones.

Senate Joint Resolution No. 360 -- Memorials, Academic Achievement -- Paul Andrew Cicala, Valedictorian, Gateway Christian Schools.

Senate Joint Resolution No. 361 -- Memorials, Academic Achievement -- Amanda Lindsay Powers, Salutatorian, Gateway Christian Schools.

Senate Resolution No. 1 -- General Assembly, Confirmation of Appointment -- Darlene L. McNeece, reappointment to Tennessee Registry of Election Finance.

Senate Resolution No. 48 -- Memorials, Academic Achievement -- Jamie Bryant, Valedictorian, Hamilton High School.

Senate Resolution No. 49 -- Memorials, Academic Achievement -- Lavida Johnson, Salutatorian, Whitehaven High School.

Senate Resolution No. 50 -- Memorials, Academic Achievement -- Maya Rubina, Salutatorian, Ridgeway High School.

Senate Resolution No. 51 -- Memorials, Academic Achievement -- Joshua Jeffries, Valedictorian, Woodale High School.

Senate Resolution No. 52 -- Memorials, Academic Achievement -- Kelley Giboney, Valedictorian, Hillcrest High School.

Senate Resolution No. 53 -- Memorials, Academic Achievement -- Jennifer Tate, Salutatorian, Hamilton High School.

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

Ayes 32
Noes 0

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

A motion to reconsider was tabled.

REFERRAL

Senator Cooper moved that **Senate Bill No. 1587** be rereferred to the Committee on Finance, Ways and Means, which motion prevailed.

CONSENT CALENDAR NO. 2

Objections having been raised, the following bill was placed at the heel of the calendar for Wednesday, May 7, 2003, pursuant to Rule 38: **Senate Bill No. 1333**.

Senate Bill No. 29 -- Firearms and Ammunition -- Authorizes county magistrates to carry weapons. Amends TCA Title 39, Chapter 17, Part 13.

On motion, Senate Bill No. 29 was made to conform with **House Bill No. 63**.

On motion, House Bill No. 63, on same subject, was substituted for Senate Bill No. 29.

Senate Bill No. 434 -- Pensions and Retirement Benefits -- Allows retired teachers to accept full-time employment as elected city officials without loss or suspension of retirement benefits; such retired teacher may not receive additional benefits for employment as city official. Amends TCA Title 8, Chapter 36, Part 8.

Senate Bill No. 799 -- Hospitals and Health Care Facilities -- Requires Department of Mental Health and Developmental Disabilities to have applications under Community Mental Health Center Cooperation Act of 1998 available on or before January 1, 2004. Amends TCA Title 33.

On motion, Senate Bill No. 799 was made to conform with **House Bill No. 546**.

On motion, House Bill No. 546, on same subject, was substituted for Senate Bill No. 799.

Senate Bill No. 802 -- Motor Vehicles -- Creates Class A misdemeanor offense for knowingly installing or reinstalling any object in lieu of air bag designed in accordance with federal regulations for specific make, model and year of vehicle to be used as part of inflatable restraint system.

On motion, Senate Bill No. 802 was made to conform with **House Bill No. 1403**.

On motion, House Bill No. 1403, on same subject, was substituted for Senate Bill No. 802.

Senate Bill No. 886 -- State Symbols -- Designates Tennessee Aviation Hall of Fame and affiliated Tennessee Museum of Aviation as official state repository and archive for aviation history. Amends TCA Title 4, Chapter 1, Part 3.

On motion, Senate Bill No. 886 was made to conform with **House Bill No. 1177**.

On motion, House Bill No. 1177, on same subject, was substituted for Senate Bill No. 886.

Senate Bill No. 936 -- State Symbols -- Designates tomato as official state fruit. Amends TCA Title 4, Chapter 1, Part 3.

On motion, Senate Bill No. 936 was made to conform with **House Bill No. 987**.

On motion, House Bill No. 987, on same subject, was substituted for Senate Bill No. 936.

Senate Bill No. 1108 -- Historical Sites and Preservation -- Removes exemption for Hermitage from being designated as state property or property owned by state. Amends TCA Title 4, Chapter 13.

On motion, Senate Bill No. 1108 was made to conform with **House Bill No. 1597**.

On motion, House Bill No. 1597, on same subject, was substituted for Senate Bill No. 1108.

Senate Bill No. 1345 -- Real Property -- Authorizes general sessions courts that have environmental court designation to be added to courts statutorily designated to handle terminations of tenancy for knowing controlled substance or prostitution violations. Amends TCA Section 66-7-107.

Senate Bill No. 1457 -- Appeal and Review -- Provides that in certain counties appeal from decision of probate court goes to court of appeals even if probate court is served by judge who is not circuit court judge or chancellor. Amends TCA Section 30-2-609.

On motion, Senate Bill No. 1457 was made to conform with **House Bill No. 1152**.

On motion, House Bill No. 1152, on same subject, was substituted for Senate Bill No. 1457.

Senate Bill No. 1731 -- Historical Sites and Preservation -- Prohibits smoking in any building designated as national historic landmark by U. S. Department of Interior owned by state or which receives state appropriations. Amends TCA Title 4, Chapter 11 and Title 4, Chapter 8.

Senate Bill No. 1746 -- Taxes, Excise -- Changes minimum payment of quarterly franchise and excise tax installments from lesser of 25 percent of prior year's liability or 25 percent of 80 percent of current year's liability to lesser of 25 percent of tax shown on prior year's return or 25 percent of 100 percent of current year's liability and deletes obsolete provisions. Amends TCA Title 67, Chapter 4, Part 20.

On motion, Senate Bill No. 1746 was made to conform with **House Bill No. 1802**.

On motion, House Bill No. 1802, on same subject, was substituted for Senate Bill No. 1746.

Senate Bill No. 1995 -- Cheatham County -- Removes population exclusion which will result in appointment of county building commissioner by chief executive officer of county with approval by county legislative body in all counties of state. Amends TCA Section 13-7-110.

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

Ayes 32
Noes 0

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

A motion to reconsider was tabled.

LOCAL BILL
CONSENT CALENDAR

Senate Bill No. 2024 -- Portland -- Subject to local approval, sets term limit, appointing method, and age requirement for city judge. Amends Chapter 568 of the Private Acts of 1939; as amended.

On motion, Senate Bill No. 2024 was made to conform with **House Bill No. 2105**.

On motion, House Bill No. 2105, on same subject, was substituted for Senate Bill No. 2024.

Senator Crowe moved that **House Bill No. 2105** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 32
Noes 0

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

A motion to reconsider was tabled.

MOTION

Senator Crowe moved that, pursuant to Rule 31, the following resolution and bills be referred to the Committee on Finance, Ways and Means: **Senate Joint Resolution No. 142, and Senate Bills Nos. 226, 533, 728, 1066, 1374 and 1686**, which motion prevailed.

CALENDAR

Senate Joint Resolution No. 11 -- Memorials, Government Officials -- Urges secretary of state to include "I AM TENNESSEE", official state declamation, in subsequent editions of *Tennessee Blue Book*.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the language "West" in the sixth paragraph of I AM TENNESSEE.

AND FURTHER AMEND by deleting the language "Jazz" in the eleventh paragraph of I AM TENNESSEE and substituting instead the language "Blues, soul and rock and roll".

On motion, the amendment was adopted.

Thereupon, **Senate Joint Resolution No. 11**, as amended, was adopted by the following vote:

Ayes 31
Noes 0

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

A motion to reconsider was tabled.

Senator Trail moved that **Senate Bill No. 191** be placed on the calendar for Monday, May 12, 2003, which motion prevailed.

Senate Bill No. 375 -- Alcoholic Beverages -- Redefines "premier type tourist resort" for authorization of sale and consumption of alcoholic beverages. Amends TCA Section 57-4-102(24).

Senate Bill No. 375 passed its third and final consideration by the following vote:

Ayes 24
Noes 5

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Trail and Mr. Speaker Wilder--24.

Senators voting no were: Beavers, Burks, Herron, Southerland and Williams--5.

A motion to reconsider was tabled.

Senate Bill No. 389 -- Pharmacy, Pharmacists -- Requires pharmacy benefit managers to notify pharmacies enrolled in such manager's health plan of cancellation of coverage of benefits for enrollees. Amends TCA Title 56; Title 63 and Title 71.

Senator Trail moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 2

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

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 56-7-126. (a) A pharmacy benefits manager shall notify a pharmacist who furnishes goods or services under any policy or contract for health insurance coverage provided under the TennCare program of the failure of any health insurer to provide timely payments for nondisputed claims pursuant to contract within fourteen (14) days of the failure of the health insurer to fund a scheduled payment.

(b) Failure by a pharmacy benefits manager to provide notice as described herein shall be cause for the commissioner of the Tennessee Department of Commerce and Insurance to impose the appropriate penalties allowed in Title 56 of the Tennessee Code Annotated.

(c) For the purposes of this section, "Pharmacy benefits manager" means a person, business or other entity and any wholly or partially owned subsidiary of such entity, that administers the prescription drug or device portion of plans providing health insurance coverage on behalf of a third party including plan sponsors, insurance companies, unions, and health maintenance organizations.

SECTION 2. This act shall take effect July 1, 2003, the public welfare requiring it and shall apply to claims for goods and services arising on and after that date.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 389**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

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

A motion to reconsider was tabled.

Senate Bill No. 460 -- Insurance, Health, Accident -- Establishes mechanism to regulate recoupment of health care provider claims by certain entities.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 1

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

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding the following as a new section:

56-7-110 (a) As used in this part:

(1) "Covered person" means a person on whose behalf a health insurance entity offering health insurance coverage is obligated to pay benefits or provide services.

(2) "Health insurance coverage" has the same meaning as in § 56-7-109.

(3) "Health insurance entity" has the same meaning as in § 56-7-109.

(4) "Health care provider" means any person or entity performing services regulated pursuant to Title 63 or Title 68, Chapter 11.

(5) "Retroactive denial of a previously paid claim" or "retroactive denial of payment" means any attempt by a health insurance entity retroactively to collect payments already made to a health care provider with respect to a claim by reducing other payments currently owed to the health care provider, by withholding or setting off against future payments, by demanding payment back from a health care provider for a claim already paid or in any other manner reducing or affecting the future claim payments to the health care provider.

(6) "Recoupment" means the action by a health insurance entity to recover amounts previously paid to a health care provider by withholding or setting off such amounts against current payments to the health care provider.

(b) A health insurance entity shall not be required to correct a payment error to a health care provider if the provider's request for a payment correction is filed more than eighteen (18) months after the date that the health care provider received payment for the claim from the health insurance entity.

(c) Except in cases of fraud committed by the health care provider, a health insurance entity may only retroactively deny reimbursements to the provider during the eighteen (18) month period after the date that the health insurance entity paid the claim submitted by the health care provider.

(d) A health insurance entity that retroactively denies reimbursement to a health care provider under this section shall give the health care provider a written or electronic statement specifying the basis for the retroactive denial and the statement shall contain, at a minimum, the information required by subsection (g) of this section.

(e) If a health insurance entity determines that payment was made for services not covered under the covered person's health insurance coverage, the health insurance entity shall give written notice to the health care provider of its intent to retroactively deny a previously paid claim and may:

(1) Request a refund from the health care provider; or

(2) Make a recoupment of the payment from the health care provider in accordance with subsection (g).

The notice required by this subsection may be included in the results of an audit submitted to the health care provider.

(f) Notwithstanding subsection (c), if a health insurance entity or an agent contracted to provide eligibility verification, verifies that an individual is a covered person and if the health care provider provides services to the individual in reliance on such verification, the health insurance entity may not thereafter retroactively deny a claim on the basis that the individual is not a covered person unless such retroactive

denial occurs within six (6) months of the date that the health insurance entity paid the claim; otherwise the health insurance entity is barred from making such recoupment unless there was fraud by the health care provider.

(g) If a health insurance entity chooses to recoup from a health care provider amounts previously paid under a retroactively denied claim pursuant to subsections (c) or (e), the health insurance entity shall provide the health care provider written documentation that specifies:

(1) The amount of the recoupment;

(2) The covered person's name to whom the recoupment applies;

(3) Patient identification number;

(4) Date of service;

(5) The service or services on which the recoupment is based; and

(6) The pending or future claims being recouped.

(h)(1) If the Commissioner of Commerce and Insurance finds a health insurance entity has failed to comply with the provisions of this act, the commissioner may impose a penalty of two (2) times the amount of the claim or seven hundred fifty dollars ($750) whichever amount is less.

(2) In the alternative, the health care provider may seek injunctive or other appropriate relief in the chancery or circuit court in the county where the provider resides or practices.

(i) The commissioner shall adopt rules and regulations to ensure compliance with this section within one (1) year of the effective day of this act. All such rules shall be adopted in accordance with the provisions of Title 4, Chapter 5 and may be promulgated by public necessity rulemaking.

(j) The provisions of this act shall not be waived, voided or nullified by contract.

(k)(1) The provisions of this act shall not interfere or otherwise repeal the following:

(A) The prompt payment appeals process described in Section 56-32-226;

(B) The authority of a receiver appointed by the Commissioner of Commerce and Insurance pursuant to provisions of Title 56, Chapter 9 to audit or collect overpayment made to providers more than eighteen (18) months from the date that the managed care organization (MCO) paid the claim;

(C) The authority of the TennCare Bureau to collect overpayments made to providers more than eighteen (18) months from the date that the MCO paid the claim if discovered and verified by the bureau pursuant to an audit of an MCO; or

(D) The subrogation rights or authority of the TennCare Bureau.

(2) Health insurance entities that contract directly with the TennCare Bureau in the provision of services for TennCare recipients are specifically excluded from the provisions of this act only for the products and services made by such health insurance entities on behalf of the TennCare Bureau.

SECTION 2. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and that end the provisions of the act are declared to be severable.

SECTION 3. This act shall take effect January 1, 2004, the public welfare requiring it, and shall apply to contracts entered into or renewed on or after the effective date of this act.

On motion, the amendment was adopted.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the following language from the amendatory language of subsection (g), Section 1, as amended:

(6) The pending or future claims being recouped.

and by substituting instead the following language:

(6) The pending claims being recouped or that future claims will be recouped.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 460**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

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

A motion to reconsider was tabled.

Senate Bill No. 550 -- Criminal Offenses -- Allows merchants to aid in prevention of sale of alcoholic beverages to persons underage. Amends TCA Section 39-15-413.

On motion, Senate Bill No. 550 was made to conform with **House Bill No. 847**.

On motion, House Bill No. 847, on same subject, was substituted for Senate Bill No. 550.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 1

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

SECTION 1. Tennessee Code Annotated, Section 39-15-413, is amended by designating the present subsection (a) as (a)(1) and by adding the following new (a)(2):

(2) It is not a violation of §§ 39-15-404, 39-15-410, or 39-17-1501--39-17-1508, or any other statute prohibiting the use, possession or sales of alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia to a minor or a person under twenty-one (21) years of age, for a merchant in the business of selling alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia, to use or send a minor, or in the case of alcohol or beer, a person under twenty-one (21) years of age, to purchase any such product for the purpose of aiding in the enforcement of laws and policies prohibiting sales by the merchant at the merchant's place of business and preventing sales of such products to or use by individuals underage from occurring.

AND FURTHER AMEND by deleting subsection (b) and adding the following new subsections:

(b) Prior to using a minor to perform illegal or delinquent acts for the purposes of aiding in the enforcement of the laws of this state as permitted by this section, the law enforcement officer or merchant shall obtain the written approval of the minor's parent or legal guardian and the juvenile court. Provided, however, the consent of the minor's parent or legal guardian and the juvenile court shall not be required if the person used to make any such purchase is eighteen (18) years of age or older.

(c) In order to use a minor, or in the case of alcohol or beer, a person under twenty-one (21) years of age, for any of the purposes permitted by this section, the requirements of this subsection shall apply:

(1) Any such minor or person under twenty-one (21) years of age shall not:

(A) Disguise his or her appearance so as to misrepresent his or her actual age;

(B) If male, have facial hair, and, if male or female, wear cosmetics, jewelry, or clothing that is not consistent with his or her actual age; and

(C) Make statements designed to trick, mislead, encourage or confuse the employee.

(2) Any such minor or person under twenty-one (21) years of age shall:

(A) Be photographed, both before and after the law enforcement or merchant-initiated use of the person, for the purpose of creating a record of his or her appearance during the time of the permitted use of such person;

(B) During the law enforcement or merchant-initiated use of such person, speak only when necessary to attempt to complete the illegal or delinquent act;

(C) Except only for those questions relating to his or her employment or purpose for engaging in the conduct, respond truthfully to all questions posed by the location employee, including, but not limited to, inquiries concerning his or her age; and

(D) If identification is demanded by the location employee, produce only a valid state-issued card, which indicates his or her actual date of birth.

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

On motion, the amendment was adopted.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the language "FURTHER AMEND by deleting subsection (b) and adding the following new subsections:" and substituting instead the following language "SECTION 2. Tennessee Code Annotated, 39-15-413, is further amended by deleting subsection (b) and substituting instead the following new subsections".

AND FURTHER AMEND by redesignating the effective date section as Section 3.

On motion, the amendment was adopted.

Senator Clabough moved that **House Bill No. 847**, as amended, be placed on the calendar for Wednesday, May 7, 2003, which motion prevailed.

Senate Bill No. 694 -- Hospitals and Health Care Facilities -- Revises penalties for and regulation of nursing home facilities. Amends TCA Title 63; Title 68 and Title 71.

Senator Ford moved to amend as follows:

AMENDMENT NO. 1

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

SECTION 1. This act shall be referred to as the "Nursing Home Compassion, Accountability, Respect and Enforcement Reform Act".

SECTION 2. Tennessee Code Annotated, Section 68, Chapter 1, Part 1, is amended by adding the following language, designated as a new Section 68-1-120:

Section 68-1-120. The commissioner shall submit a report by not later than February 1 of each year to the Governor and to each House of the General Assembly regarding the department's nursing home inspection and enforcement activities during the previous year. The report shall analyze trends in compliance with nursing home standards and residents' rights by nursing homes in the state, and shall be limited to identifying those trends through aggregate and quantitative data only. In preparing the report, the commissioner may utilize quantitative data compiled by nursing homes pursuant to federal or state regulations. The commissioner shall ensure that the report is promptly made available to the public by dissemination via the Internet and that the report is available for members of the public to copy.

SECTION 3. Tennessee Code Annotated, Section 68-11-207, is amended by adding the following new subsection, to be designated as a new subsection (e):

(e)(1) In addition to the authority granted above, the board shall have the authority to place a facility on probation. To be considered for probation, a facility must have had at least two (2) separate substantiated complaint investigation surveys within six (6) months, where each survey had at least one deficiency cited at the level of substandard quality of care or immediate jeopardy, as those terms are defined at 42 C.F.R. § 488.301. None of the surveys can have been initiated by an unusual event or incident self-reported by the facility.

(2) If a facility meets those criteria, the board may hold a hearing at its next regularly scheduled meeting to determine if the facility should be placed on probation. Prior to initiating such a hearing, the board shall provide notice to the facility detailing what specific non-compliance the board has identified that the facility must respond to at the probation hearing.

(3) Prior to imposing probation, the board may consider and address in its findings all factors which it deems relevant, including, but not limited to, the following:

(A) What degree of sanctions is necessary to ensure immediate and continued compliance; and

(B) Whether the non-compliance was an unintentional error or omission, or was not fully within the control of the facility; and

(C) Whether the nursing home recognized the non-compliance and took steps to correct the identified issues, including whether the facility notified the department of the non-compliance either voluntarily or as required by state law or regulations; and

(D) The character and degree of impact of the non-compliance on the health, safety and welfare of the patient or patients in the facility; and

(E) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the non-compliance; and

(F) The facility's prior history of compliance or non-compliance.

(4) If the board places a facility on probation, the facility shall detail in a plan of correction those specific actions, which when followed, will correct the non-compliance identified by the board.

(5) During the period of probation, the facility must make reports on a schedule determined by the board. These reports must demonstrate and explain to the board how the facility is implementing the actions identified in its plan of correction. In making such reports, the board shall not require the facility to disclose any information protected as privileged or confidential under any state or federal law or regulation.

(6) The board is authorized at any time during the probation to remove the probational status of the facility's license, based upon information presented to it showing that the conditions identified by the board have been corrected and are reasonably likely to remain corrected.

(7) The board must rescind the probational status of the facility if it determines that the facility has complied with its plan of correction as submitted and approved by the board, unless the facility has additional non-compliance that warrants an additional term of probation as defined in § 68-11-207(e)(1).

(8) A single period of probation for a facility shall not extend beyond twelve (12) months. If the board determines during or at the end of the probation that the facility is not taking steps to correct non-compliance or otherwise not responding in good faith pursuant to the plan of correction, the board may take any additional action as authorized by law.

(9) The hearing to place a facility on probation including all proceedings under this subsection and judicial review of the board's decision shall be in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(10) The provisions in this act in no way relieve any party from the responsibility to report suspected adult abuse, neglect and/or exploitation to, or to share information with, the Adult Protective Services Program in accordance with the provisions of the Tennessee Adult Protection Act, Tennessee Code Annotated, Title 71, Chapter 6, Part 1.

SECTION 4. Tennessee Code Annotated, Section 68-11-801, is amended by adding the following new subsection, to be designated as follows:

(e) The imposition of a state civil penalty pursuant to this section and the decision to impose such shall not be affected by either the imposition or withholding

of a federal sanction under the provisions of Title XVIII (42 U.S.C. § 1395 et seq.) or XIX (42 U.S.C. § 1396 et seq.) of the Social Security Act.

SECTION 5. Tennessee Code Annotated, Section 68-11-811, is amended by deleting from subsection (a) the language "five thousand dollars ($5,000)" and substituting instead "seven thousand five hundred dollars ($7,500)"; by deleting from subsection (b) the language "one thousand dollars ($1,000)" and substituting instead "one thousand five hundred dollars ($1,500)"; by deleting from subsection (c) the language "two hundred fifty dollars ($250)" and substituting instead "two hundred fifty dollars ($250) and not more than four hundred dollars ($400)".

SECTION 6. Tennessee Code Annotated, Section 68-11-210, is amended by adding the following language, to be designated as a new subsection (d):

(d) Any nursing home that files for federal bankruptcy protection shall immediately inform the Commissioner of Health regarding its financial condition and the status of the legal proceedings. In overseeing a facility that has filed for federal bankruptcy protection, the Department of Health shall follow any existing policies or regulations pertaining to any special inspection or oversight of such a facility. The fund established by § 68-11-827 may be used for the purpose of protecting the residents of such a nursing home, if the facility's non-compliance with the conditions of continued licensure, applicable state and federal statutes, rules, regulations and contractual standards threatens the residents' continuous care, the residents' property, the nursing home's continued operation, or the nursing home's continued participation in the medical assistance program of Title 71, Chapter 5. The commissioner shall inform the attorney general and reporter regarding the status of the legal proceedings.

SECTION 7. Tennessee Code Annotated, Section 71-6-103(d), is amended replacing the semicolon at the end of subsection (d)(2) with a period and adding the following language to the end of the subsection:

The Commissioner of Health, upon becoming aware through personal knowledge, receipt of a report or otherwise, of confirmed exploitation, abuse, or neglect of a nursing home resident, shall report such instances to the Tennessee Bureau of Investigation for a determination by the bureau as to whether the circumstances reported constitute abuse of the Medicaid program or other criminal violation.

SECTION 8. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following language, which shall be designated as a new section:

71-5-195. The comptroller of the treasury, in conjunction with any appropriate TennCare drug utilization review committees, shall study the use of prescription drugs in nursing homes and the costs of those prescription drugs for residents of nursing homes. The study shall examine prescription use overall, and shall focus on any practices that would improve the quality of resident care while reducing costs to the TennCare program. By January 1, 2005, the comptroller of the treasury shall deliver its report to the Speakers of the respective Houses of the General Assembly.

SECTION 9. If any provision of this act or the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of

the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect on July 1, 2003, the public welfare requiring it.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 694**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

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

A motion to reconsider was tabled.

Senator Crutchfield moved that **Senate Bill No. 749** be placed at the heel of the calendar for today, which motion prevailed.

Senate Bill No. 879 -- Criminal Procedure -- Provides that person found not guilty of criminal offense by reason of insanity is not entitled to have such records expunged by virtue of such finding. Amends TCA Title 40, Chapter 32, Part 1.

Senator Norris moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the language of Section 1 and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-32-101, is amended by deleting the period (.) at the end of subsection (a)(1) and substituting instead the following:

; provided however, when a defendant in a case has been convicted of any offense or charge, including a lesser included offense or charge, the defendant shall not be entitled to expungement of the records or charges in such case pursuant to this part.

Senator Ramsey moved that **Senate Bill No. 879** be placed on the calendar for Wednesday, May 7, 2003, which motion prevailed.

Senate Bill No. 953 -- Optometry -- Requires optometric applicants to graduate from school approved by board of optometry; revises conflict of interest provision for board members; revises per diem of board members from $50.00 per day to $100 per day. Amends TCA Title 63, Chapter 8.

On motion, Senate Bill No. 953 was made to conform with **House Bill No. 913**.

On motion, House Bill No. 913, on same subject, was substituted for Senate Bill No. 953.

Thereupon, **House Bill No. 913** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

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

A motion to reconsider was tabled.

Senate Bill No. 988 -- Election Laws -- Requires question submitted to people in special advisory nonbinding referendum election held by local government to be worded so "yes" vote indicates support and "no" vote indicates opposition. Amends TCA Title 2, Chapter 5.

On motion, Senate Bill No. 988 was made to conform with **House Bill No. 1211**.

On motion, House Bill No. 1211, on same subject, was substituted for Senate Bill No. 988.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the amendatory language of Section 1 and substituting instead the following:

(l) On ballots in a referendum election held by a local government, any question submitted to the vote of the people shall be printed followed by the words "Yes" and "No", so that the voter can vote a preference by making a cross mark (X) opposite the proper word. Any question submitted to the people shall be worded in such a manner that a "yes" vote would indicate support for the measure and a "no" vote would indicate opposition.

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1211**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

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

A motion to reconsider was tabled.

Senate Bill No. 1517 -- Medical Occupations -- Authorizes EMT-Ps to become EMTs by terminating their EMT-P license and taking any courses required to be qualified as EMT. Amends TCA Title 68, Chapter 140, Part 5.

On motion, Senate Bill No. 1517 was made to conform with **House Bill No. 1069**.

On motion, House Bill No. 1069, on same subject, was substituted for Senate Bill No. 1517.

Thereupon, **House Bill No. 1069** passed its third and final consideration by the following vote:

Ayes 30
Noes 0

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

A motion to reconsider was tabled.

Senate Bill No. 1611 -- Medical Occupations -- Adds veterinarians to providers covered under Health Care Consumer Right to Know Act of 1998. Amends TCA Title 63, Chapter 51.

Senate Bill No. 1611 passed its third and final consideration by the following vote:

Ayes 32
Noes 0

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

A motion to reconsider was tabled.

Senate Bill No. 1675 -- Dentists -- Authorizes board of dentistry to issue facility permits for dental offices where certain types of anesthesia are performed. Amends TCA Section 63-5-108.

On motion, Senate Bill No. 1675 was made to conform with **House Bill No. 1453**.

On motion, House Bill No. 1453, on same subject, was substituted for Senate Bill No. 1675.

Thereupon, **House Bill No. 1453** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

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

A motion to reconsider was tabled.

Senator McNally moved that **Senate Bill No. 1676** be placed on the calendar for Wednesday, May 7, 2003, which motion prevailed.

Senate Bill No. 1739 -- Massage -- Authorizes board of massage therapists to not issue massage therapy licenses if certain criteria are not met; deletes felony conviction as ground for not issuing license as massage therapist. Amends TCA Title 63, Chapter 18.

Senate Bill No. 1739 passed its third and final consideration by the following vote:

Ayes 29
Noes 2

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

Senators voting no were: Burks and Kurita--2.

A motion to reconsider was tabled.

Senate Bill No. 1921 -- Purchasing -- Requires purchases of chemical products by state, county, or municipality to be from manufacturers that list and maintain material safety data sheet on Internet. Amends TCA Title 5, Chapter 14; Title 6, Chapter 56 and Title 12, Chapter 3.

On motion, Senate Bill No. 1921 was made to conform with **House Bill No. 1733**.

On motion, House Bill No. 1733, on same subject, was substituted for Senate Bill No. 1921.

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

Senator Graves moved to amend as follows:

AMENDMENT NO. 2

AMEND by designating the existing amendatory language of Section 3 as subsection (a) and by adding the following language to such section to be designated as subsection (b):

(b) The Commissioner of General Services shall post on its web site the universal resource locator (URL) for MSDS-SEARCH which is currently http://www.msdssearch.com. The commissioner shall update such URL if necessary.

AND FURTHER AMEND by adding the following language at the end of the amendatory language of Sections 1 and 2:

The URL for MSDS-SEARCH shall be posted on the web site of the Department of General Services as provided in § 12-3-217(b).

On motion, the amendment was adopted.

Senator Graves moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1733**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

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

A motion to reconsider was tabled.

Senate Bill No. 1959 -- Taxes, Sales -- Includes labor, building materials, and equipment in valuation of investment for purposes of meeting $50 million threshold for sales and use tax credit for headquarters relocation.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

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

SECTION 1. Tennessee Code Annotated, Section 67-6-224, is amended by deleting that section in its entirety and by substituting instead the following language:

Section 67-6-224. (a) A taxpayer who establishes a "qualified headquarters facility" in this state shall be eligible for a credit of all state sales or use taxes paid to the state of Tennessee, except tax at the rate of one-half percent (0.5%), on the sales or use of "qualified tangible personal property".

(b) For purposes of this section, the following definitions shall apply:

(1) "Facility" means a building or buildings, either newly constructed, expanded, or remodeled, housing headquarters staff employees and located in a county or metropolitan statistical area in this state. A facility may include parking facilities exclusively for the use of headquarters staff employees and visitors provided, that the parking facilities are built in conjunction with the newly constructed, expanded, or remodeled building or buildings. An expansion of a headquarters facility may be connected to or separate from a headquarters facility or other facilities located in a county or metropolitan statistical area in this state. The facility must be utilized as a headquarters facility for a period of at least ten (10) years beginning from the date of substantial completion;

(2) "Full-time employee job" means a permanent, rather than seasonal or part-time, employment position providing employment as a headquarters staff employee for at least twelve (12) consecutive months to a person for at

least thirty-seven and one-half (37.5) hours per week with minimum health care, as described in Title 56, Chapter 7, Part 22;

(3) "Headquarters facility" means a facility in this state that houses the international, national, or regional headquarters of a taxpayer where headquarters staff employees are located and employed and where the primary headquarters related functions and services are performed;

(4) "Headquarters related functions and services" means those functions involving administrative, planning, research and development, marketing, personnel, legal, computer or telecommunications services performed by headquarters staff employees on an international, national, or regional basis. For purposes of this subsection, regional means a geographic area comprised of at least Tennessee and one (1) or more of its contiguous states. "Headquarters related functions and services" does not include functions involving manufacturing, processing, warehousing, distribution, wholesaling, or operating a call center;

(5) "Headquarters staff employees" means executive, administrative, or professional workers performing headquarters related functions and services. An executive employee is a full-time employee who is primarily engaged in the management of all or part of the enterprise. An administrative employee is a full-time employee who is not primarily involved in manual work and whose work is directly related to management policies or general headquarters operations. A professional employee is an employee whose primary duty is work requiring knowledge of an advanced type in a field of science or learning. This knowledge is characterized by a prolonged course of specialized study;

(6) "Investment period" means that the investment must be made during the period beginning one (1) year prior to the start of the construction, expansion, or remodeling and ending one (1) year after substantial completion of the construction, expansion, or remodeling of the facility. However, in no event shall the investment period exceed six (6) years;

(7) "Minimum investment" means:

(A) A minimum investment by the taxpayer and lessor to the taxpayer of fifty million dollars ($50,000,000) or more in a building or buildings, either newly constructed, expanded, or remodeled; or

(B) A minimum investment by the taxpayer and the lessor to the taxpayer of twenty million dollars ($20,000,000) in a building or buildings, either newly constructed, expanded, or remodeled, along with the creation of not less than two hundred (200) new full-time employee jobs created during the investment period with average wages or salaries equal to or greater than two hundred percent (200%) of the average wage in the county or the metropolitan statistical area in which the taxpayer is located, whichever is higher, as reported in the Monthly Labor Report published by the Department of Labor and

Workforce Development for the month of January of the year in which such full-time employee jobs are created.

The minimum investment may include, but is not limited to, the purchase price of an existing building, and the cost of building materials, labor, equipment, parking facilities, and landscaping, but shall not include land or inventory;

(8) "New full-time employee job" means full-time headquarters staff employee jobs that are new to the state of Tennessee and, for at least ninety (90) days prior to being filled by the taxpayer, did not exist in Tennessee as a job position of the taxpayer or of another business entity. The new full-time employee jobs must be created and filled within the investment period. An employee in a new full-time employee job may be employed at a temporary location in this state pending completion of construction or renovation work at the qualified headquarters facility;

(9) "Qualified headquarters facility" means a headquarters facility where the taxpayer has made the minimum investment during the investment period;

(10) "Qualified tangible personal property" means building materials, machinery, and equipment used exclusively in the qualified headquarters facility and purchased or leased during the investment period. Qualified tangible personal property does not include supplies or repair parts. Qualified tangible personal property does not include any payments with respect to leases of qualifying tangible personal property which extend beyond the investment period. Qualified tangible personal property does not include any materials, machinery, or equipment that replaces tangible personal property that previously generated a credit under this section.

(c) A taxpayer qualifying for this credit must be subject to the taxes imposed by Chapter 4, Parts 20 and 21 of this title. The taxpayer shall not be permitted to take advantage of any additional sales tax or other state tax credits, exemptions, or reduced rates which would otherwise be available as a result of the same purchases or minimum investment, except the tax credits provided under §§ 67-4-2109(a), (b), and (c) and 67-4-2009(1) and (4)(A)(ii). A taxpayer qualifying for this reduced rate shall also not be permitted to utilize the credits available to hospital companies under § 67-4-2009.

(d)(1) A taxpayer seeking this credit shall first submit to the Commissioner of Revenue an application to qualify as a headquarters facility together with a plan describing the investment to be made and, if applicable, documentation verifying employment and wage information. In the case of a leased facility, the lessor shall also file an application and plan. The application and plan shall be submitted on forms prescribed by the commissioner and shall demonstrate that the requirements of the law will be met.

(2) After approval of the application and business plan, the commissioner shall issue a letter to the taxpayer stating that the taxpayer has tentatively met the requirements for the credit provided for in this section.

(3) In order to receive the credit, the taxpayer must submit a claim for credit along with documentation as required by the commissioner showing that Tennessee sales or use taxes have been paid to the state on qualified tangible personal property. The taxpayer's claim for credit of sales or use taxes paid to Tennessee may include such taxes paid by the taxpayer, lessor in the case of a leased facility, contractors, and subcontractors on sales or use of qualified tangible personal property. Documentation verifying that the minimum investment requirements have been met shall include, but are not limited to, employment records, invoices, bills of lading, lease agreements, contracts, and all other pertinent records and schedules as required by the commissioner.

(4) The commissioner shall review the claim for credit and notify the taxpayer of the approved tax credit amount and provide direction for taking the credit. The taxpayer may not take the credit until the commissioner has notified the taxpayer of the amount approved and provided direction to the taxpayer on the proper methodology for taking the credit. The credit may only be taken by the taxpayer establishing the "qualified headquarters facility".

(e) If the minimum investment requirements are not made within the investment period, or the terms of this section are not met, the taxpayer shall be subject to assessment for any sales or use tax, penalty, or interest which would otherwise have been due and for which credit was taken. The statute of limitations shall not begin to run on these assessments until December 31 of the final year of the ten-year period provided for in subsection (b)(1).

(f) Credits under this section shall not reduce the taxes earmarked and allocated to education pursuant to § 67-6-103(c)(1).

SECTION 2. The Commissioner of Economic and Community Development shall make a biennial report to the General Assembly on activities or projects undertaken in accordance with the provisions of Section 67-6-224.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all applications and plans filed on or after January 1, 2003, but shall be null and void and cease to be of effect on December 31, 2006.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 1959**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

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

A motion to reconsider was tabled.

Senator Norris moved that **Senate Bill No. 396** be placed on the calendar for Wednesday, May 7, 2003, which motion prevailed.

Senate Bill No. 1207 -- Solid Waste Disposal -- Increases from 30 to 45 days time for filing appeal from final action of solid waste authority. Amends TCA Title 68.

Senator Ramsey moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Crowe moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Ford moved to amend as follows:

AMENDMENT NO. 3

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

SECTION 1. Tennessee Code Annotated, Section 68-14-302, subsection (6), is amended by deleting the fourth sentence in its entirety and substituting instead the following language:

"Food service establishment" does not include churches where food is prepared, served, transported, or stored by volunteer personnel only on non-consecutive days. "Stored" does not include the storage of unopened, commercially canned food, packaged bulk food that is not potentially hazardous, or dry goods for the purposes of the preceding sentence.

SECTION 2. Tennessee Code Annotated, Section 68-14-302, subsection (6), is further amended by adding the language "primary or secondary" in the seventh sentence between the language "recreational activities or" and "school-related clubs".

SECTION 3. Tennessee Code Annotated, Section 68-14-303, subsection (3), is amended by adding the following language between the second and third sentences in subsection (3):

The rules or regulations requiring that food be obtained from sources that comply with all laws relating to food and food labeling shall be waived for churches or houses of worship if the food is served only to the homeless and the food is prepared in a church, in a house of worship, or in a private home or homes by persons who have successfully completed a training course of at least two (2) hours, conducted by the department, and the consumer is informed by a clearly visible placard, readily understandable to the average person, stating that the food may have been prepared in a facility that is not subject to regulation or inspection by the department.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, the amendment was adopted.

Senator Ford moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting the language "churches" wherever it appears in the amendatory language of Sections 1 and 3 and by substituting instead the language "churches, civic, fraternal, or veterans' organizations".

AND FURTHER AMEND by deleting the language "church, in a house of worship" in the amendatory language of Section 3 and by substituting instead the language "church, civic, fraternal, or veterans' organization, or a house of worship".

On motion, the amendment was adopted.

Senator Crowe moved that **Senate Bill No. 1207**, as amended, be placed at the heel of the calendar for today, which motion prevailed.

Senator Norris moved that **Senate Bill No. 1658** be placed on the calendar for Thursday, May 8, 2003, which motion prevailed.

Senate Bill No. 1854 -- Consumer Protection -- Adds new unfair or deceptive practice of making representations in primary text of solicitation, promotion, advertisement, or other offering that is contradicted in disclosure that is inconspicuous, concealed, or otherwise obscure. Amends TCA Title 47, Chapter 18.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting from the amendatory language of Section 1 the words "Either in an initial offer or" and by substituting instead the words "Either in an initial offer for a prize or travel service or".

On motion, the amendment was adopted.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 2

AMEND by designating the existing amendatory language of Section 1 as subpart (4)(A) and by adding the following new (4)(B):

(B) If a motor vehicle dealer is in compliance with the advertising regulations of the Tennessee Motor Vehicle Commission, as such regulations exist on the effective date of this act, the provisions of subpart (4)(A) shall not apply to such dealer.

On motion, the amendment was adopted.

Senator Herron moved that Amendment No. 3 be withdrawn, which motion prevailed.

Senator Herron moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting the following language:

(B) If a motor vehicle dealer is in compliance with the advertising regulations of the Tennessee Motor Vehicle Commission, as such regulations exist on the effective date of this act, the provisions of subpart (4)(A) shall not apply to such dealer.

and by substituting instead the following:

(B) If a motor vehicle dealer is in compliance with the advertising regulations of the Tennessee Motor Vehicle Commission, as such regulations exist on the effective date of this act and as amended from time to time thereafter, the provisions of subpart (4)(A) shall not apply to such dealer.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 1854**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

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

A motion to reconsider was tabled.

Senator Henry moved that **Senate Bill No. 1848** be rereferred to the Committee on Government Operations, which motion prevailed.

Senator Herron moved that **Senate Bill No. 1941** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 749 -- Municipal Government -- Permits municipal utility systems to accept voluntary contributions through programs such as round-up programs and to make contributions for bona fide charitable purposes. Amends TCA Title 7.

On motion, Senate Bill No. 749 was made to conform with **House Bill No. 718**.

On motion, House Bill No. 718, on same subject, was substituted for Senate Bill No. 749.

Senator Cohen moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Crutchfield moved that **House Bill No. 718** be placed on the calendar for Thursday, May 8, 2003, which motion prevailed.

FURTHER ACTION ON SENATE BILL NO. 1207, AS AMENDED

Senator Cohen moved to amend as follows:

AMENDMENT NO. 5

AMEND by adding after the word "churches" throughout the following words:

"temples, synagogues or other religious institutions"

Pursuant to Rule 39(3), Amendment No. 5 was adopted by the following vote:

Ayes 29
Noes 0

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

Thereupon, **Senate Bill No. 1207**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

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

A motion to reconsider was tabled.

MOTION

Senator McNally moved that Rule 83(8) be suspended for the purpose of placing **Senate Resolution No. 71** on the calendar for the Committee on Education for Wednesday, May 7, 2003, which motion prevailed.

SENATE MESSAGE CALENDAR

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1789 -- Highway Signs -- "Merchants/Greene Boulevard", unbuilt segment of S.R. 66 in Hamblen County.

HOUSE AMENDMENT NO. 1

AMEND by deleting Section 4 in its entirety and by substituting instead the following:

SECTION 4. This act shall become operative only if the cost of the erection of such signs is paid to the Department of Transportation from non-state funds within one (1) year of the effective date of this act. Such payment shall be made prior to any expenditure by the state for the manufacture or installation of such signs. The department shall return any unused portion of the estimated cost to the persons or entity paying for such sign within thirty (30) days of the erection of such sign. If the actual cost exceeds the estimated cost, an amount equal to the difference in such costs shall be remitted to the department in non-state funds within thirty (30) days of receiving an itemized invoice of the actual cost from the department.

Senator Southerland moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 1789**, which motion prevailed by the following vote:

Ayes 31
Noes 0

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

A motion to reconsider was tabled.

RECALL OF BILL

On motion of Senator Harper, **House Joint Resolution No. 433** was recalled from the Committee on State and Local Government.

MOTION

Senator Harper moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 433**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 433 -- Naming and Designating -- Tennessee Osteoporosis Prevention Month, May 2003.

On motion of Senator Harper, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 433** was concurred in.

A motion to reconsider was tabled.

NOTICE

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

MESSAGE FROM THE HOUSE

May 5, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 792, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MOTION

On motion of Senator Person, his name was added as sponsor of **Senate Bill No. 1676**.

On motion of Senator Kilby, his name was added as sponsor of **Senate Bills Nos. 220, 1395, 1483 and 2011**.

On motion of Senator Haynes, his name was added as prime sponsor of **Senate Bill No. 1108**.

On motion of Senator Jackson, his name was removed as sponsor of **Senate Bill No. 1108**.

On motion of Senator Herron, his name was added as sponsor of **Senate Joint Resolution No. 392**.

On motion of Senator Graves, her name was added as sponsor of **House Joint Resolutions Nos. 424, 433, 435, 442 and 446; and Senate Bill No. 694**.

On motion of Senator Kurita, her name was added as sponsor of **House Joint Resolution No. 10**.

On motion of Senator Beavers, her name was added as sponsor of **House Joint Resolutions Nos. 429, 430, 437 and 446**.

On motion of Senator Dixon, his name was added as sponsor of **House Joint Resolution No. 427**.

On motion of Senator Harper, her name was added as sponsor of **Senate Joint Resolution No. 356 and House Joint Resolution No. 433**.

On motion of Senator Henry, his name was added as sponsor of **House Joint Resolution No. 415**.

On motion of Senator Norris, his name was added as sponsor of **House Joint Resolutions Nos. 438, 439, 440 and 441**.

On motion of Senator Crowe, his name was added as sponsor of **House Joint Resolutions Nos. 422 and 444**.

On motion of Senator Williams, his name was added as sponsor of **House Joint Resolution No. 10**.

On motion, all Senators' names were added as sponsors of **Senate Joint Resolution No. 121**.

On motion of Senator Trail, his name was added as sponsor of **House Joint Resolution No. 434 and Senate Bill No. 1739**.

On motion, all Senators' names were added as sponsors of **Senate Joint Resolution No. 320**.

On motion of Senator Ramsey, his name was added as sponsor of **House Joint Resolution No. 291**.

On motion of Senator Cohen, his name was added as sponsor of **Senate Bill No. 1731**.

On motion of Senator McNally, his name was added as sponsor of **Senate Bill No. 389**.

On motion of Senators Trail, Haynes, Harper, Kilby, McNally, Ramsey and Crutchfield, their names were added as sponsors of **Senate Bill No. 694**.

On motion of Senator Ketron, his name was added as sponsor of **Senate Bill No. 1207**.

On motion of Senator Burks, her name was added as sponsor of **Senate Bills Nos. 988 and 1921**.

On motion of Senator Burks, her name was removed as sponsor of **Senate Bill No. 694**.

On motion of Senator Cooper, his name was added as sponsor of **Senate Bills Nos. 213 and 694**.

ENGROSSED BILLS
May 5, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 375 and 1739, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS
May 5, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 1345, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 5, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 389, 434, 460, 694, 1207, 1611, 1731, 1854, 1959 and 1995; and Senate Joint Resolution No. 11; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 6, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 121, 310, 320, 322, 323, 324, 325, 326, 327, 328, 329, 330, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 356, 358, 359, 360 and 361; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 5, 2003

MR. SPEAKER: I am directed to return Senate Bill No. 1978. The House lifted from the table the motion to reconsider passage of Senate Bill No. 1978, reconsidered Amendment No. 1, withdrew Amendment No. 1, and repassed Senate Bill No. 1978 on third and final consideration.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 5, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 279 and 1901, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 5, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 375, 1116, 1345, 1465, 1538, 1733 and 1739; substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 5, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1787 and 1793, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 5, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 237, 432, 716, 807, 953, 957, 1065, 1099, 1116, 1163, 1467, 1697, 2103, 2104 and 2106; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 5, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 718, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 5, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2105, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 5, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 510, 511, 512, 513, 514 and 515; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS
May 5, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 3, 946, 1029, 1476, 1597, 1890, 1958 and 2018; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENROLLED BILLS
May 6, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 1, 48, 49, 50, 51, 52 and 53; and find same correctly enrolled and ready for the signature of the Speaker.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

SIGNED
May 5, 2003

The Speaker announced that he had signed the following: Senate Bills Nos. 3, 946, 1029, 1476, 1597, 1890 and 1958.

SIGNED
May 5, 2003

The Speaker announced that he had signed the following: Senate Bill No. 2018.

SIGNED
May 6, 2003

The Speaker announced that he had signed the following: Senate Resolutions Nos. 1, 48, 49, 50, 51, 52 and 53.

MESSAGE FROM THE HOUSE
May 5, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2018, signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 6, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 3, 946, 1029, 1476, 1597, 1890 and 1958; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK
May 2, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 117, 282, 301, 302, 303, 304, 306, 309, 311, 312, 314, 315, 316, 317, 318, 319, 357 and 376; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

REPORT OF CHIEF ENGROSSING CLERK

May 5, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bill No. 2018, for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

REPORT OF CHIEF ENGROSSING CLERK

May 6, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 3, 946, 1029, 1476, 1597, 1890 and 1958; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

May 2, 2003

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 491 and 2019, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

May 5, 2003

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 189, 461, 508, 526, 708, 840, 941, 950, 1114, 1468, 1581, 1783, 1887, 1930, 1936 and 1980; and Senate Joint Resolutions Nos. 116, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 274, 275, 276, 277, 278, 279, 280, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 300 and 308; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Wednesday, May 7, 2003: Senate Joint Resolutions Nos. 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397 and 398; and Senate Resolutions Nos. 72, 73, 74, 75 and 76.

This the 5th day of May, 2003.
CROWE, Chairperson.

ADJOURNMENT

Senator Crutchfield moved the Senate adjourn until 3:00 p.m., Wednesday, May 7, 2003, which motion prevailed.